

# ENVIRONMENTAL ASSESSMENT BOARD



## ONTARIO HYDRO DEMAND/SUPPLY PLAN HEARINGS

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VOLUME: 90

DATE: Tuesday, December 10, 1991

**BEFORE:**

HON. MR. JUSTICE E. SAUNDERS	Chairman
DR. G. CONNELL	Member
MS. G. PATTERSON	Member

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ENVIRONMENTAL ASSESSMENT BOARD  
ONTARIO HYDRO DEMAND/SUPPLY PLAN HEARING

IN THE MATTER OF the Environmental Assessment Act,  
R.S.O. 1980, c. 140, as amended, and Regulations  
thereunder;

AND IN THE MATTER OF an undertaking by Ontario Hydro  
consisting of a program in respect of activities  
associated with meeting future electricity  
requirements in Ontario.

Held on the 5th Floor, 2200  
Yonge Street, Toronto, Ontario,  
on Tuesday, the 10th day of December,  
1991, commencing at 10:00 a.m.

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VOLUME 90  
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B E F O R E :

THE HON. MR. JUSTICE E. SAUNDERS	Chairman
DR. G. CONNELL	Member
MS. G. PATTERSON	Member

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MR. R. NUNN	Counsel/Manager, Information Systems
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1 ---Upon commencing at 10:03 a.m.

2 THE REGISTRAR: Please come to order.

3 This hearing is now in session. Please be seated.

4 JUNE BASU ROY,  
5 KENNETH SNELSON,  
6 ERSKINE LEE FLOOK;  
7 THOMAS EASTON WIGLE;  
8 ALANNA MARY QUINN;  
9 BRIAN JOHN MCCORMICK;  
10 REED CAMERON HARRIS; Resumed.

11 CROSS-EXAMINATION BY MS. MARLATT (Cont'd):

12 Q. Ms. Quinn, I believe we left off  
13 yesterday at a discussion about the term co-planning.  
14 Just for ease of following this in the transcript, we  
15 were referring to page 29 in Exhibit 411, which is  
16 transcript page 15593, and at the time we broke  
17 yesterday we were discussing the Abitibi situation. I  
18 believe that it was your definition that suspension of  
19 Abitibi followed by co-planning; correct?

20 MS. QUINN: A. Can you just rephrase  
21 that? I'm sorry.

22 Q. We had been discussing what  
23 co-planning was, and I believe that my recollection of  
24 your testimony was that you qualified the term  
25 co-planning in Abitibi as also including suspension  
then followed by a co-planning process.

A. Yes, the exclusion criteria relates  
to a suspension of activities until a co-planning

1 agreement has been reached.

2 Q. So in that reference then, there is  
3 clearly a veto power for the local First Nations with  
4 respect to that project; correct?

5 A. Well, if you consider our voluntary  
6 suspension as involving veto, it may be. That isn't  
7 exactly how we characterize it.

8 Q. I am actually looking for exactly how  
9 you characterize it. Perhaps you can help me, Ms.  
10 Quinn. If you have suspended the work on that project  
11 for now until co-planning is in place, what is Hydro's  
12 policy if a co-planning agreement cannot be reached?

13 A. There is no policy. The decisions  
14 are made case-by-case.

15 With regards to the Moose River Basin,  
16 and I will use that phrase rather than the Abitibi,  
17 Hydro voluntarily agreed to suspend its activities in  
18 terms of doing a project-specific work and the basin  
19 plan assessment, and as you know it's become an  
20 exclusion criteria here. But also what has happened is  
21 the provincial mediator has been appointed.

22 THE CHAIRMAN: I think what she is  
23 asking, I think that what was part of the announcement  
24 that was made in early September was that if there  
25 wasn't an agreement with the people up there, then

1 nothing further would be done. So, that would mean  
2 possibly that there was, in effect, a veto power in the  
3 hands of the community, that if they didn't enter into  
4 an agreement that would be the end of it.

5 Is that your understanding?

6 MS. QUINN: Well, it's not entirely my  
7 understanding. I guess it's a bit of a subtle point.

8 The result may be that no studies  
9 proceed, but it isn't necessary a given thing that  
10 because a co-planning study is suggested and a local  
11 group doesn't accept it, that nothing happens.

12 In the case of the Moose River Basin we  
13 have taken it a step further and we have explicitly  
14 said that we would suspend our activities until there  
15 is an agreement.

16 THE CHAIRMAN: Just a moment. What you  
17 are saying is that there may not be an agreement on  
18 studies.

19 MS. QUINN: Yes.

20 THE CHAIRMAN: Or a cumulative impact  
21 assessment or whatever it was, but that doesn't  
22 necessarily rule out the possibility you will develop  
23 the area; is that what you are saying?

24 MS. QUINN: All I am saying is that at  
25 some point in time through some other process, and in

1 this case we have a provincial mediator that's been  
2 asked to step in and discuss these matters, there may  
3 be something that in the long-term overcomes the  
4 situation, and so I guess I don't characterize it as  
5 being a veto.

6 I am saying from Hydro's point of view we  
7 are not planning to proceed, but we don't know what the  
8 end result will be. It's been taken, in a way, out of  
9 our hands.

10 MS. PATTERSON: I thought you had agreed  
11 with Mr. Kelsey that it was a veto.

12 MS. QUINN: Actually I didn't. As I went  
13 through the transcript I didn't. I kept trying to use  
14 my definition of co-planning and his was something a  
15 bit different.

16 MS. MARLATT: Q. Well, Ms. Quinn, then,  
17 your testimony appears to be that suspension followed  
18 by co-planning is not veto power for the First Nation  
19 communities; correct? Yes or no?

20 Ms. Quinn, my clients do not see it as a  
21 subtle point. We would like a yes or no answer on this  
22 question.

23 MS. QUINN: A. If they choose not to  
24 participate in a co-planning agreement, then in terms  
25 of its relationship with Hydro, the studies won't



1 proceed. So, the implication may be that there is a  
2 veto there.

3 But I really, as I have said, there is  
4 more activities going on. I can only speak for Ontario  
5 Hydro's activities.

6 Q. Ms. Quinn, I am not asking to speak  
7 for any other activities outside of Ontario Hydro's  
8 scope. But is it Ontario Hydro's position that with  
9 regards to it's own activities, if suspension followed  
10 by co-planning occurs, is that a veto for the local  
11 communities, the local First Nation communities?

12 A. As far as Ontario Hydro goes, yes.

13 Q. Yes.

14 All right, Ms. Quinn, then let's try and  
15 take that another step. With the Little Jackfish  
16 project, again on page 29 of Exhibit 411, your answer  
17 is that:

18 "In the Little Jackfish project where  
19 we offered co-planning -- and if I can  
20 just correct or be specific. By  
21 co-planning we really mean a doing of  
22 studies together because there is an  
23 inadequate data base and reaching an  
24 agreement on how all of that is done."

25 Now, on to page 15594, line 9, you are

1 asked:

2 "There was no statement of  
3 consideration of putting the same policy  
4 to them..." and I believe this refers to  
5 Little Jackfish "...in that area as had  
6 been put and implemented on the Abitibi?"  
7 Your answer.

8 "ANSWER: That's correct.

9 And I think if I can refer you back to  
10 the announcement that things have  
11 changed. There is now a government  
12 recognition and government agreement,  
13 statements of political relationships,  
14 which has changed very much how groups  
15 work together with Aboriginal people, in  
16 particular with First Nations because  
17 that agreement is with First Nations."

18 Now, Ms. Quinn, considering this  
19 statement in relationship to the document signed by the  
20 Ontario government and First Nations, the statement of  
21 political relations, would the concept of a veto by  
22 First Nations on developments by Ontario Hydro around  
23 their communities in your mind be appropriate for their  
24 status as governments?

25 A. Well, municipalities are governments,

1 regional governments are governments. I think the  
2 point behind the statement of political relationships  
3 is that the First Nations are equivalent to provincial  
4 governments, they have powers equivalent to provincial  
5 governments, and we do report to the provincial  
6 government. So I think that there is a recognition of  
7 the governmental role, but I think it goes beyond that.

8 Q. Well, Ms. Quinn, I am asking you to  
9 go beyond that. Is that Ontario Hydro's understanding  
10 that in its recognition of First Nations has  
11 governments, and perhaps in your mind you are  
12 characterizing it as provincial government powers, does  
13 that mean that First Nations have the right to veto  
14 Ontario Hydro developments in their area?

15 A. I honestly can't answer the question.  
16 The decision for the Moose River Basin was made at a  
17 very senior level and it is made on a case-by-case  
18 basis and there is no policy. There just is no policy  
19 on this point that can be applied beyond one case.

20 Q. Well, Ms. Quinn, then, has Little  
21 Jackfish, the First Nations in the area, ever been  
22 offered a veto power over that development?

23 A. No, they weren't.

24 Q. Thank you.

25 Have they ever been allowed to at least

1 choose the type of development they would like?

2 A. They participated in the part of the  
3 environmental assessment that had to do with looking at  
4 alternatives.

5 Q. When you asked them about their  
6 concept of alternatives, was it in a situation where  
7 they would be allowed to choose the type of development  
8 that would occur in their area?

9 Mr. McCormick, perhaps you can help me  
10 here.

11 MR. MCCORMICK: A. I am not sure what  
12 you mean by type of development.

13 I think their concerns in respect to the  
14 alternatives that were put forth were factored into the  
15 analysis.

16 Now, in northwestern Ontario we did look  
17 at other means of generating power, so there was  
18 alternatives to the undertaking, and alternative  
19 methods which were alternative ways of developing the  
20 potential at Little Jackfish.

21 [10:15 a.m.]

22 Q. All right, Mr. McCormick, in that  
23 way, was the First Nations around Little Jackfish, were  
24 they given the power to determine what method of  
25 developing the Little Jackfish River they would prefer?

1 A. No.

2 Q. No. Thank you. Were they given the  
3 power to determine at least the location of the  
4 development on the Little Jackfish River, Mr.  
5 McCormick?

6 A. No.

7 Q. Thank you.

8 All right, Ms. Quinn, considering the  
9 equal status of the First Nations in the Moose River  
10 Basin and around Little Jackfish, I've reviewed your  
11 testimony on what you perceive to be the differences in  
12 those two cases, and I've come up with only two  
13 reasons, and you can correct me if I'm wrong.

14 One is that you consider that Hydro has  
15 an acceptable data base for the Little Jackfish  
16 project, and the other is the timing of Little  
17 Jackfish. In your mind are those the two distinctions  
18 between the situation around Little Jackfish and the  
19 Moose River Basin?

20 MS. QUINN: A. There are other  
21 distinctions. One is that within the Little Jackfish  
22 project we were able, by way of a consultation program,  
23 to collect the data. And I keep referring back to  
24 co-planning as really relating to the doing of studies.

25 What happened was rather than us sitting



1 down and organizing a way in which the Aboriginal  
2 people would collect their own data and we would  
3 discuss it, we agreed to collect it for them and they  
4 verified it. So there was a distinction to be made in  
5 terms of how the studies were done that allowed us to  
6 proceed on the Little Jackfish.

7 Q. But, Ms. Quinn, what you've just  
8 detailed, is that not how you got to what you  
9 considered to be an acceptable data base?

10 A. Yes, now if I can speak to the Moose  
11 River Basin situation, in the plan assessment work  
12 where the data base is something that no one has  
13 collected into any great extent, it would require  
14 original field research and people participating in a  
15 variety of different kinds of studies in a variety of  
16 different ways. It isn't possible to proceed with the  
17 straight consultation activities. So there is  
18 differences in the nature of the studies.

19 Q. Ms. Quinn, if we remove the nature of  
20 the studies from the situation for a moment and say  
21 that we have the same level of information on Little  
22 Jackfish as we have on the Moose River Basin just for a  
23 moment, would the only difference then be the timing of  
24 the projects?

25 A. Timing certainly has been a critical

1 factor, and we think in particular of the signing of  
2 the statement of political relationships as being the  
3 dominant change affecting timing. I'd like to leave it  
4 at that.

5 Q. So if a development was proceeding to  
6 a environmental assessment, in fact it had the  
7 environmental assessment submitted prior to the signing  
8 of the statement of political relations, then you  
9 considered that to be a different case than if you were  
10 proceeding to submitting a draft EA after the signing  
11 of the statement of political relations, is that  
12 correct, Ms. Quinn?

13 A. Yes, although our corporate  
14 Aboriginal relations guidelines were ahead of the  
15 provincial government's signing of the agreement with  
16 the First Nations, and it recognized that Aboriginal  
17 people had a different legal status. So the timing  
18 specifically for Ontario Hydro, is a little bit in  
19 advance. It's 1990, a little bit in advance of the  
20 provincial government agreement.

21 Q. All right. But, Ms. Quinn, aren't  
22 you saying that First Nations have a different status  
23 only if that development is after August 1991?

24 A. Well, I thought I just said from an  
25 Ontario Hydro point of view, we started a little



1 earlier recognizing a different status.

2 Q. Ms. Quinn, that's fine. But even  
3 starting a little earlier, that's where you're drawing  
4 the distinction in whether you treat a First Nation as  
5 a government or not.

6 A. Yes, that's true.

7 Q. Thank you.

8 MR. SNELSON: A. There is one other  
9 point of difference that we think is quite significant,  
10 and that is that we considered that we have government  
11 direction to proceed with environmental assessments on  
12 certain projects, including Little Jackfish.

13 Q. All right, thank you, Mr. Snelson.

14 Ms. Quinn, throughout your testimony in  
15 discussing data base, and whether or not you have  
16 acceptable data base for certain projects, I believe  
17 you've referred to the concept of a data base being  
18 suspected by local communities. Is that accurate?

19 MS. QUINN: A. Credible.

20 Q. Credible is the word you would  
21 prefer?

22 Is it your testimony, Ms. Quinn, that the  
23 communities around Little Jackfish find the data base  
24 to be credible?

25 A. I would like to answer that by saying

1 I think that's site-specific. I think that we went  
2 through a verification process with them, and we did  
3 not submit our environmental assessment until the data,  
4 the community profiles, discussion of effects and  
5 significance had been verified with them, there had  
6 been discussion about impact management.

7 In fact we have signed an agreement with  
8 the Whitesand Band, and it is attached to an  
9 interrogatory, this particular agreement, and we are  
10 proceeding to collect further data on specific topics  
11 in case the project is approved. So I have nothing at  
12 this point to suggest to me that it is not credible.

13 Q. Ms. Quinn, did all the First Nations  
14 in the vicinity of Little Jackfish agree with you, on  
15 working together with Hydro on studies?

16 A. There were study areas identified for  
17 transmission and generation and there were different  
18 First Nations associated with each.

19 Q. That's not my question. My question  
20 is whether or not those First Nations were all involved  
21 in creating this credible data base on Little Jackfish?

22 A. And are you speaking about generation  
23 or transmission, I am sorry?

24 Q. Generation.

25 A. I wasn't on the project. Maybe I

1 could get some help on that.

2 Q. Mr. McCormick?

3 MR. MCCORMICK: A. I think there is two  
4 aspects of this, and that was what was done through the  
5 preparation of the environmental assessment, and I  
6 believe that to be true, the public involvement program  
7 did involve all communities surrounding Lake Nipigon.

8 Now if you're talking about the agreement  
9 with the Whitesands, very early in the negotiations we  
10 were insistent that the study encompass all Aboriginal  
11 use in the vicinity of our project, and until very late  
12 in the negotiations that was our position, and in fact  
13 the chief of the Whitesand band who was negotiating  
14 with us had met with the other chiefs, and he was  
15 representing their interests very late. Some break  
16 down occurred and we ended up with an agreement that  
17 only dealt with them.

18 Our intent in the longer term, if there  
19 were other groups who also shared that homeland, and I  
20 think that is yet to be determined, that they would  
21 also -- a similar study could also be undertaken with  
22 them. But this study, in effect, was our first effort  
23 at something of this magnitude, and we proceeded with  
24 the Whitesand band directly in an area we understood to  
25 be their homeland.

1 Q. Mr. McCormick, I should make clear  
2 that I do not wish to get into site-specific  
3 information on Little Jackfish. I'm only trying to  
4 track some of the comments that have been made earlier  
5 by this panel with regards to whether or not you have  
6 credible data base around Little Jackfish. I'd like to  
7 step back for a moment and say are you aware that the  
8 area around Little Jackfish is covered by the Robinson  
9 Superior Treaty?

10 A. Yes.

11 Q. Are you aware that within that treaty  
12 area around Little Jackfish, there are more First  
13 Nations than just Whitesand First Nation?

14 A. Yes.

15 Q. Are you aware of Rocky Bay First  
16 Nation?

17 A. Yes.

18 Q. Are you aware that that First Nation  
19 uses subsistence fishing for its economy entirely, Mr.  
20 McCormick?

21 A. We're out of my area here.

22 Q. All right, are you aware that there  
23 is a First Nation called Gull Bay First Nation in the  
24 area, Mr. McCormick?

25 A. Yes.

1 Q. Now when you talk about they or  
2 Aboriginal people's around the area of Little Jackfish,  
3 are you not just referring to the Whitesand First  
4 Nation, Mr. McCormick?

5 THE CHAIRMAN: I think he answered that  
6 just a few moments ago.

7 MS. MARLATT: Well, his answer wasn't in  
8 accordance with my understanding of the situation.

9 THE CHAIRMAN: Maybe it wasn't, but that  
10 was his answer nonetheless. I mean if you want to  
11 pursue it by suggesting something else to him, that's  
12 proper cross-examination. But I don't think a general  
13 question can be asked.

14 MS. MARLATT: Q. Mr. McCormick, then in  
15 your study with Whitesand First Nation, it did not  
16 include looking at the homelands of Gull Bay First  
17 Nation and Rocky Bay First Nation?

18 MR. MCCORMICK: A. Our interest was the  
19 area potentially affected by the project. It was our  
20 understanding that the Whitesand homeland fully  
21 encompassed, was far more extensive than that. We did  
22 understand other Aboriginal peoples, members of other  
23 bands may also use that area, and again, it was our  
24 intent and our interest and our expectation that we'll  
25 still be collecting such information at some time in



1 the future.

2 [10:25 a.m.]

3 Q. So it's not your position then that  
4 you have that information right now?

5 A. The information that we are  
6 collecting, as Ms. Quinn indicated, was more than one  
7 would normally use in an environmental assessment. It  
8 is a very extensive analysis, it's a diary-type system  
9 of who fishes where, when. Everything is quantified  
10 such that you have an accurate base line upon which one  
11 can then after the fact determine what changes may have  
12 occurred as a result of the project and being able to  
13 identify down to individuals who would be affected and  
14 to what degree they would be affected.

15 So it is just in a very extensive base  
16 line.

17 MS. QUINN: A. I think there is a  
18 general distinction that can be drawn here.

19 In the early part of the study community  
20 inventories were prepared and for a generation they  
21 included Armstrong, Gull River Reserve, Collins, Ogden  
22 and other rail line communities, and a number of these  
23 have a large Aboriginal component, and for the  
24 transmission part of the study they were the First  
25 Nations around Lake Nipigon, Lake Helen Reserve, Rocky

1 Bay Reserve, people in McDermott, Beardmore, Jellico,  
2 Red Rock Township and Orient Bay.

3 A large part of this population is  
4 Aboriginal, and in the document that's provided with  
5 Interrogatory 6.10.3, which is the Little Jackfish  
6 "Socio-Economic Impact Assessment, Community  
7 Inventories" you will find all of these communities  
8 described.

9 These inventories were prepared through a  
10 process that involved verification with people in those  
11 communities.

12 Now, what we are talking about with the  
13 first -- with the Whitesand Band is a later step in the  
14 process. After you have described your existing area,  
15 your study area, and you have discussed affects and  
16 possible impacts you then begin to focus on what the  
17 significant ones are, and through the process of the  
18 Little Jackfish environmental assess we learned that  
19 certain communities would be more affect than others.  
20 The Whitesand Band is one that has a large stake in  
21 changes that could occur.

22 So we then move into more detailed work  
23 that would relate to impact management activities, and  
24 that's why we have a particular study underway with the  
25 Whitesand Band. There may be other studies with others



1 in the area. Usually these studies are negotiated at a  
2 time close to when a project could become approved.

3 Q. Ms. Quinn, but my question is much  
4 more specific than that. When we have had this  
5 discussion about co-planning -- and you have referred  
6 to attempts at co-planning around the Little Jackfish  
7 area. In fact, I believe you considered that to be  
8 your first attempt at co-planning?

9 A. Yes, we actually asked if we could do  
10 that for skills inventory.

11 Q. All right. But as it stands right  
12 now the only example you have of co-planning in the  
13 Little Jackfish area is your study with Whitesand First  
14 Nation; correct?

15 A. Yes.

16 Q. Thank you.

17 THE CHAIRMAN: Perhaps we should make  
18 this 6.10.3; is that right?

19 MS. QUINN: Yes. It's a document called  
20 "Little Jackfish River Hydroelectric Project, Community  
21 Inventories", and it's part of the socio-economic  
22 impact assessment, and it is report No. CSPH 88002. If  
23 you like, I can give you the reference to the Whitesand  
24 Band.

25 THE CHAIRMAN: Just a moment. Perhaps we

1 should give that one a number then.

2 THE REGISTRAR: 367.105, Mr. Chairman.

3 ---EXHIBIT NO. 367.105: Interrogatory No. 6.10.3.

4 THE CHAIRMAN: Sorry, Ms. Quinn. Go  
5 ahead.

6 MS. QUINN: I am just looking for the  
7 Whitesand Band agreement, and I can give you the number  
8 of the interrogatory that that's attached to. It will  
9 take me a while to go through my binders. If you like,  
10 I can do that after the break.

11 THE CHAIRMAN: Fine.

12 MS. MARLATT: Q. All right, Ms. Quinn.  
13 Then I would like to turn to page 31, which is page  
14 15597 of the transcript. Starting with line 13 you  
15 state:

16 "...there has been an agreement  
17 signed between First Nations and the  
18 provincial government, and the provincial  
19 government has established a set of  
20 circumstances where First Nations want to  
21 deal directly with" - and a second  
22 "with" - "government on a government to  
23 government basis and Ontario Hydro will  
24 report to the Government.

25 "Question: There is a possibility,

1 presumably, that the same thing may apply  
2 to Patten Post, isn't there?

3 "Answer: Yes.

4 "Question: No proceeding without a  
5 co-planning?

6 "Answer: That may be."

7 Ms. Quinn, can you give me any more  
8 definitive answer than, "That may be"? What I am  
9 looking for is whether or not the process of suspension  
10 followed by co-planning used in the Moose River Basin  
11 would also be applied to Patten Post?

12 MS. HARVIE: I'm sorry, Mr. Chairman.  
13 The answer is clearly right in the transcript, as Ms.  
14 Marlatt has read out.

15 MS. MARLATT: I guess I would like a  
16 definition, a bit more information on what that may be.

17 THE CHAIRMAN: If you have any more.

18 MS. QUINN: Yes, I can help a little. In  
19 Volume 88, page --

20 THE CHAIRMAN: Volume what? I'm sorry.

21 MS. QUINN: 88.

22 THE CHAIRMAN: That's Exhibit 88, is it?

23 MS. QUINN: I'm sorry. Yes, it's -- no,  
24 it's not. It's the transcript No. 88.

25 THE CHAIRMAN: Oh, all right. Thank you.

1 MS. QUINN: Page 15562, line 15, and Mr.  
2 Flook and I had been asked questions specifically about  
3 Patten Post, and we spoke to the point that this is a  
4 project that Ontario Hydro was directed to pursue  
5 through an Order in Council, which is quite a different  
6 status than one we initiate under our own steam.

7 And so, in this regard we have gone back  
8 to government to seek further direction. It's not as  
9 though it is a project that is equivalent to one that  
10 we decide on and we pursue.

11 The circumstances are different, and  
12 that's why my answer was somewhat tentative by saying  
13 "it may be". We don't know the outcome. We are  
14 awaiting direction from government.

15 MS. MARLATT: Q. Ms. Quinn, just so I  
16 understand this exclusionary factor as it applies to  
17 the Moose River Basin, if we took the government  
18 direction issue away from Patten Post would it be the  
19 same type of process that would be used?

20 MS. QUINN: A. I have no idea. As we  
21 said in our testimony, the decision for the Moose River  
22 Basin was made at a senior level. There may well be  
23 other factors that would come into play, and I honestly  
24 don't know the answer to that.

25 Q. And there is no one on this Panel who

1 can answer those questions as to whether or not Ontario  
2 Hydro has developed in fact an exclusionary factor with  
3 regards to First Nations developments?

4 A. Well, we know we have only developed  
5 it with regards at this point in time to the Moose  
6 River Basin. That's been our testimony.

7 Q. So your exclusionary factor in fact  
8 only directs itself at one type of development, one  
9 area of the province. It is not a screening factor  
10 that can used for the rest of the province?

11 A. That's correct.

12 Q. All right. Thank you, Ms. Quinn.  
13 Turning to page 32, Interrogatory No. 6.40.25.

14 THE REGISTRAR: That will be No. 106, Mr.  
15 Chairman.

16 ---EXHIBIT NO. 367.106: Interrogatory No. 6.40.25.

17 MS. MARLATT: Q. Ontario Hydro is  
18 discussing the importance of traditional indigenous  
19 heritage sites, and in the answer, first paragraph,  
20 half-way down:

21 Ontario Hydro is proposing to work  
22 with potentially affected First Nations  
23 to develop a methodology to identify and  
24 protect sacred sites, places of power,  
25 and special sites of Native cultural



1 heritage. Examples of past efforts are  
2 described in the Little Jackfish  
3 environmental assessment.

4 For the Little Jackfish project area  
5 burial sites have been identified through  
6 the assistance of the Whitesand First  
7 Nation and family members. Ontario Hydro  
8 is aware that some sacred sites are  
9 present in the project area. The process  
10 by which potential effects will be  
11 identified and mitigation measures  
12 determined will be developed in  
13 partnership with the affected First  
14 Nations.

15 Priority will be given to avoidance  
16 and protection of the sites. As  
17 appropriate, purification ceremonies or  
18 other special measures will be taken.

19 Ms. Quinn, just so I can clarify it in my  
20 mind the term "traditional indigenous heritage sites",  
21 would that also include areas used for medicinal  
22 purposes such as collecting plants and herbs used in  
23 indigenous medicine?

24 MR. MCCORMICK: A. When this was written  
25 I don't believe our consultant who is our heritage



1 specialist had that in mind.

2 Q. From the last paragraph of this  
3 interrogatory can we assume that Ontario Hydro accepts  
4 identified traditional indigenous heritage sites in  
5 Ontario to be exclusionary factors in determining the  
6 attainable potential for hydraulic power? Ms. Quinn?

7 MS. QUINN: A. I don't believe we would  
8 consider that an exclusionary criteria. Within the  
9 "Little Jackfish Hydroelectric Project Socio-Economic  
10 Impact Assessment", which is attached to Interrogatory  
11 6.2.4 and is Report CSPH 88001, there is an appendix,  
12 and it is Appendix I, and it sets out a process for  
13 what to do if a burial site is found.

14 This process was developed in  
15 consultation with people in specifically the Whitesand  
16 Band, but there would be others also involved, and it  
17 talks about what could be done in terms of relocating  
18 graves or avoiding them.

19 [10:35 a.m.]

20 And so it doesn't become a factor that is  
21 taken to the point of being considered a criterion.

22 Q. And is that because, Ms. Quinn, in  
23 Ontario Hydro's concept of these traditional indigenous  
24 heritage sites if they are affected can be mitigated?

25 A. We would certainly try to mitigate

1       them. Our definition of impact management, as you  
2       know, includes seven or eight activities, mitigation.  
3       just being the reduction of the negative.

4               So we would consider other ways of  
5       providing some offsetting activity that might be seen  
6       as fair by the local people affected.

7               Q. Do you acknowledge, Ms. Quinn, that  
8       there are certain traditional indigenous heritage sites  
9       that can be not be mitigated and must be avoided?

10              A. I can imagine that within a  
11       site-specific study that sort of circumstance could  
12       arise.

13              Q. All right. Looking at the sentence  
14       where the answer states: Priority will be given to  
15       avoidance and protection of sites.

16              Ms. Quinn, the term "priority" to me is  
17       unclear here. Priority over what?

18              A. Over having to perhaps relocate  
19       sites.

20              Q. So priority will be given to  
21       avoidance and protection of sites over attempts to  
22       mitigate impacts?

23              A. No, over attempts to relocate.

24              Q. Well, is not relocation a method of  
25       mitigation in your mind?

1 A. Yes, but mitigation is a broader  
2 notion than the specific task of just relocation.

3 Q. Precisely. So you are not referring  
4 to a broader definition, you are referring to a very  
5 specific -- instead of relocating you will attempt to  
6 avoid and protect sites; correct?

7 A. That's fair.

8 Q. Thank you.

9 Ms. Quinn, does Hydro commit on a policy  
10 basis to respecting navigation routes used by First  
11 Nations in pursuit of their traditional lifestyles?

12 A. On a policy basis, no.

13 Q. Thank you. Does Hydro commit on a  
14 policy level to respecting the importance of fishing to  
15 the culture and economies of First Nations?

16 A. Ontario Hydro doesn't have a policy  
17 at all. We only have corporate guidelines. So any  
18 references that you make to policy would be  
19 inappropriate.

20 Q. Mr. Harris, I have some questions for  
21 you, turning to page 36, on mercury. Before we look at  
22 that page I am wondering if we can turn up yesterday's  
23 Volume 89, page 15713, lines 22 to 25. I believe this  
24 is your answer, Mr. Harris:

25 "I hope, as I am sure you do, that we

1 work towards a strong predictive  
2 capability in the near future, but I just  
3 can't give a date as to when that might  
4 happen."

5 Mr. Harris, do you recall that?

6 MR. HARRIS: A. I'm sorry, I just  
7 received the volume, I am just looking for it.

8 Q. Line 22.

9 A. What page was that, sorry?

10 Q. Page 15713.

11 A. Yes, I see the comment.

12 Q. Thank you.

13 Mr. Harris, in reviewing the transcript  
14 it appears to me that your answer, that you were  
15 working towards a strong predictive capability, refers  
16 to your ability to predict mercury levels in  
17 reservoirs' ability to return to preflooding values; is  
18 that accurate?

19 A. The predictive capability would be in  
20 terms of the increase in fish and the duration of  
21 elevated fish mercury levels.

22 Q. All right. So, Mr. Harris, then  
23 it's your evidence that right now Ontario Hydro does  
24 not have a strong predictive capability for determining  
25 mercury levels in fish and the duration of mercury

1       contamination in a reservoir that you may create?

2                   A. I think in terms of using a model, a  
3       mathematical model, that's a true statement. But I  
4       think that the models are used as one tool in the  
5       assessment of the issue, and that there are some other  
6       methods which are used to consider mercury, and we can  
7       gain some insights at least into the trends if not the  
8       absolute values; in other words, projects which have no  
9       flooding whatsoever we would expect mercury not to be a  
10      significant issue probably.

11                  So, I think despite the lack of a strong  
12      predictive capability in a modelling sense, we do have  
13      enough understanding of how mercury moves through  
14      reservoirs and into fish to gain some sense of the  
15      issue.

16                  Q. Mr. Harris, I am not looking to  
17      whether or not you have a sense of the issue. I am  
18      looking to whether or not it is your professional  
19      opinion that as of today Ontario Hydro has a strong  
20      predictive capability in dealing with reservoirs such  
21      as the area of Little Jackfish, 2,000 hectares, or  
22      Patten Post, 4,000 hectares, to determine how much  
23      mercury will enter fish in the area and how long it  
24      will stay there; is that your evidence?

25                  A. In cases such as those with some



1 flooding, I would say our predictive capability is not  
2 strong right now.

3 Q. All right. Thank you, Mr. Harris.

4 Then back to page 36 of Exhibit 411, I  
5 would like to refer you to the second paragraph and I  
6 believe we are talking about hazards relating to  
7 hydraulic developments.

8 "Another hazard is the potential for  
9 poisoning and related health disorders  
10 caused by a diet consisting mainly of  
11 fish with elevated levels of  
12 methylmercury. In addition, there may be  
13 lifestyle effects for certain individuals  
14 or groups who rely on fish for  
15 subsistence or recreational purposes,  
16 particularly Aboriginal populations in  
17 the north."

18 Mr. Harris, is it --

19 DR. CONNELL: Excuse me, could I know the  
20 source of this, please?

21 THE CHAIRMAN: Am I right, it's Exhibit  
22 333?

23 MS. MARLATT: Yes.

24 Dr. Connell, if you can look back to page  
25 33, I have the front page for that document.



1 MR. HARRIS: Ontario Hydro is the author,  
2 it's not marked on that page.

3 DR. CONNELL: Thank you. And the date,  
4 '91?

5 MS. MARLATT: That's correct.

6 DR. CONNELL: Thank you.

7 MS. MARLATT: Q. Mr. Harris, it appears  
8 to be your evidence that one reason why mercury levels  
9 are not considered to be an exclusionary criterion is  
10 that inhabitants of an area may practice selectivity  
11 in their fishing to avoid mercury poisoning; is that  
12 correct?

13 MR. HARRIS: A. The selectivity issue of  
14 which species and what sizes of fish are being consumed  
15 is a factor, yes, at the site-specific level.

16 Q. I would like to refer to page 39,  
17 which is interrogatory 6.10.76.

18 THE REGISTRAR: Which is 107.

19 THE CHAIRMAN: Thank you.

20 ---EXHIBIT NO. 367.107: Interrogatory No. 6.10.76.

21 MS. MARLATT: Q. And in the second  
22 sentence, first paragraph, we see in relation to fish  
23 mercury levels:

24 "Health risks can be minimized by  
25 selection of species in which

1 bioaccumulation is not a problem and  
2 younger fish which exhibit lower mercury  
3 levels. This fact applies to existing  
4 conditions.

5 No studies have been conducted on the  
6 effects of a size selective harvest.  
7 This determination would be based on a .  
8 number of factors which cannot be  
9 assessed at this time. If selection  
10 consumption is a preferred course of  
11 action by subsistence users, this study  
12 and measures to mitigate any resulting  
13 affects can be addressed through proposed  
14 post-operational monitoring studies."

15 Mr. Harris, with regards to this answer,  
16 it appears to be Hydro's position that no  
17 determinations can be made at this time because you  
18 haven't done this type of study; it's appropriate for a  
19 site-specific environmental assessment; is that  
20 correct, Mr. Harris?

21 MR. HARRIS: A. I think the merits of  
22 using selectivity need to be addressed at the  
23 site-specific level.

24 Q. So it's your understanding there  
25 would be no general understanding of whether or not

1 Aboriginal populations considers selectivity to be an  
2 acceptable alternative at a planning level?

3 A. I personally can't comment on the  
4 Aboriginal perspective on that. I don't know whether  
5 some of my colleagues can or not.

6 Q. Well, I will direct some questions  
7 towards them in a moment.

8 Page 40, in your evidence, during  
9 cross-examination on page 15198, Volume 86, line 2, you  
10 stated:

11 "I think it would be appropriate to  
12 consider what other species can be eaten,  
13 what size of fish can be eaten, and if a  
14 project were to be proposed in an area,  
15 what alternative locations might be  
16 considered."

17 Stopping there, Mr. Harris. Do you mean  
18 alternative locations for fishing?

19 A. Yes, I do.

20 Q. "In other words, there are several  
21 options to pursue in terms of minimizing  
22 the uptake of contaminated fish by  
23 people, so that fish are not a complete  
24 indicator on their own."

25 Next I would like to refer to you page

1 41, which is a discussion of Little Jackfish  
2 environmental assessment. The second paragraph, second  
3 sentence, starts:

4 "Studies concluded that restrictions in  
5 walleye and northern pike consumption  
6 would be required in the new reservoir.  
7 Selectively in both size and species  
8 would be necessary for those who wish to  
9 consume fish from the reservoir."

10 THE CHAIRMAN: Just in terms of the  
11 record, you are referring to Interrogatory 6.6.5.

12 MS. MARLATT: That's correct.

13 THE REGISTRAR: That will be 108, Mr.  
14 Chairman.

15 ---EXHIBIT NO. 367.108: Interrogatory No. 6.6.5.

16 MS. MARLATT: Q. Mr. Harris, once  
17 mercury has entered the system in a reservoir, it's  
18 your evidence that the mitigation methods to be used to  
19 protect the humans in the area from mercury  
20 contamination would be selectivity in the size and  
21 species and perhaps in the location of where they fish;  
22 is that correct?

23 MR. HARRIS: A. Those are two of the  
24 factors, two of the mitigative options. There are  
25 others which have been mentioned in the direct evidence

1 and in Exhibit 333.

2 Q. Well, Mr. Harris, are there any other  
3 factors that you could list once a reservoir has been  
4 created, once mercury exists in the reservoir to  
5 protect human users from mercury contamination?

6 A. Yes, there are. If I can just have a  
7 moment.

8 Q. Could you please list them for me.  
9 Thank you.

10 A. I believe in the direct evidence I  
11 mentioned the following: That monitoring, for example,  
12 is an important aspect of mitigation in terms of  
13 identifying mercury levels in fish; posting warnings if  
14 some fish have elevated mercury levels is an option;  
15 identifying fish species with lower mercury levels  
16 which is part of the selectivity issue; identifying  
17 other areas with fish which may have lower mercury  
18 levels; the possibility of providing access to some  
19 areas which may not be presently accessible in terms of  
20 new areas to fish which might have fish with lower  
21 mercury levels, and monitoring the mercury levels in  
22 humans as well.

23 [10:50 a.m.]

24 So I think these are all, these are all  
25 considerations.



1 Q. Mr. Harris, all of those  
2 considerations all affect the human users of the fish  
3 in a reservoir, do they not?

4 A. Yes, they do.

5 Q. They are all directed at controlling  
6 the human users of fish in a reservoir.

7 A. I wouldn't quite say controlling the  
8 human users, I would say they are directed towards  
9 guiding the consumption of fish by these users.

10 Q. Mr. Harris, First Nations who fish in  
11 a river, according to your testimony, may have to  
12 restrict their fishing both in the size and type of  
13 fish that they would be allowed to catch and consume  
14 and not be exposed to mercury contamination. So one  
15 impact from mercury contamination that comes out of  
16 reservoirs and flooding may be the restriction on the  
17 Aboriginal right to fish. Would you agree with me, Mr.  
18 Harris?

19 A. I think it's a very case-by-case  
20 specific question, but it's possible that  
21 recommendations would be made for Aboriginals to be  
22 selective about which fish they eat, yes.

23 In terms of affecting Aboriginal rights,  
24 I don't know whether you're moving into a legal area in  
25 terms of what their actual rights are in a legal sense,



1 and I can't comment on that particular question, if  
2 that's what you were leading towards.

3 Q. No, Mr. Harris, that's wasn't what I  
4 was heading towards. I just wanted to know whether or  
5 not I was covering the mitigation methods you were  
6 referring to, which is selectivity in size and species  
7 and location of fishing in a reservoir.

8 MR. McCORMICK: A. I think one thing  
9 that we could add here, and I make specific reference  
10 to Interrogatory 6.6.63, all mitigation opportunities  
11 that are available to us, the intent is to develop and  
12 select those in co-operation with the Aboriginal  
13 peoples. This isn't some sort of imposed arrangements  
14 here. There may well be ways that would be acceptable  
15 to them.

16 I think one has to look at the degree of  
17 use of a reservoir, the size of the homeland, the  
18 number of people involved, and really this is an  
19 element of co-planning. In other words, one works with  
20 them to find what the best solutions are. If in fact  
21 there are no acceptable solutions, maybe that is a case  
22 where the project should not proceed.

23 MS. QUINN: A. I think there is another  
24 factor, if I can add, and that is mitigation is  
25 something you really do in response to an effect or an

1 impact. We know from some of our studies that some  
2 species of fish, for example in the Little Jackfish  
3 area, it may be the white fish that are more  
4 predominant in the subsistence diet, and white fish are  
5 not necessarily a species that is affected to the same  
6 extent as some of the others.

7 We also know that some of the lakes are  
8 not lakes where Aboriginal people choose to fish. So  
9 what we want to really emphasize is that there is a lot  
10 of site-specific information to take into account, and  
11 mitigation is something you do as a result of a  
12 predicted effect. And if there is no affect, if there  
13 is not going to be a negative impact, you don't need to  
14 do mitigation.

15 Q. Well, Ms. Quinn, let's talk about  
16 areas where there will be a predicted impact, where you  
17 know an area is within a traditional homeland of a  
18 First Nation, where you know that the stated position  
19 of that First Nation is that it is their Aboriginal  
20 right to fish in the area.

21 In that case are you not telling them  
22 that in order to avoid mercury contamination, assuming  
23 it exists in their reservoir, they must restrict their  
24 fishing habits?

25 A. Well, the homeland is a much larger

1 area than what you refer to as reservoir. For example  
2 the studies we're doing with the Whitesand First Nation  
3 is to look at what their patterns are within their  
4 homeland. And we're looking at study areas that relate  
5 to fishing, study areas that relate to trapping, that  
6 relate to hunting and relate to berry picking. And  
7 each of those will have study areas, and the level of  
8 usage within each study area will be quite different.  
9 So you can't assume that a reservoir is equivalent to a  
10 homeland in terms of size and impact.

11 Q. Ms. Quinn, are you saying then that a  
12 reservoir that is located within a homeland that you  
13 know is used for fishing, is not something that you  
14 could look at on a planning level?

15 A. Yes, I would agree to that, but not  
16 your earlier statement.

17 Q. Okay, thank you, Ms. Quinn. From a  
18 social impacts perspective on a planning level, do you  
19 consider that the principle of selectivity in fish  
20 consumption is generally an acceptable alternative to  
21 mercury poisoning to provide to Aboriginal peoples?

22 MR. MCCORMICK: A. I think all that  
23 we've said is that selectivity is one option that we  
24 would like to explore with the Aboriginal peoples  
25 affected. There are other options, and the whole

1 effort is to do it on a co-operative level and decide  
2 what is best for a given Aboriginal group.

3 Q. Then, Mr. McCormick, in your sense of  
4 a co-operative effort, does that include the First  
5 Nations saying to you, "You're going to poison our  
6 reservoir, we cannot continue to fish in the same way  
7 that we are right now, because you tell us that if we  
8 do, we will run into problems with mercury  
9 contamination"?

10 A. That is a possibility.

11 Q. That is a possibility. If it occurs,  
12 what is Hydro's policy on that?

13 A. We don't have a formal policy on  
14 that. We'll deal with the specific circumstances and  
15 why that belief holds true and what the level of  
16 understanding is, what opportunities have been explored  
17 to minimize the amount of flooding, to minimize the  
18 amount of mercury released and the effects on fish.

19 If the predominant species of fish is not  
20 going to take up mercury, for example, to a significant  
21 degree, then the concern may be based on other factors.  
22 We'll try through information and negotiation,  
23 discussion to see if there isn't some means of reaching  
24 a positive agreement for all parties involved.

25 If on the other hand, again, it would be

1 their major food source, then there is no option but to  
2 practice selectivity, or in fact there is no option  
3 even there, then perhaps that project shouldn't  
4 proceed.

5 Q. Perhaps the project shouldn't  
6 proceed, Mr. McCormick, but perhaps that could also be  
7 used as a planning principle that if that situation  
8 occurs, it is Hydro's policy not to ask the Aboriginal  
9 people in the area to use selectivity in size and  
10 species, if they reject that as an acceptable  
11 alternative to them.

12 THE CHAIRMAN: That question is largely  
13 argumentative. I think he's told you what the position  
14 of Ontario Hydro is on the question.

15 MS. MARLATT: All right, thank you.

16 Q. Ms. Quinn, on page 44, lines 11 to  
17 14, I believe you're referring to studies within the  
18 Moose River Basin area, and you responded to Mr.  
19 Castrilli's question saying:

20 "We have asked to do studies with  
21 groups, in particular groups that are  
22 your clients, and we have been refused.  
23 We have asked at project and at plan  
24 stage assessments."

25 Ms. Quinn, I'd like to ask you a more



1 general question here. In your opinion why would a  
2 First Nation not respond to a request for information  
3 by Hydro?

4 MS. QUINN: A. Well, I think I discussed  
5 that yesterday with Mr. Colborne. There are many  
6 different reasons that Aboriginal communities can have,  
7 and our particular process, the environmental  
8 assessment process is an analytical one, and there may  
9 be times when that just doesn't suit their purposes.

10 Q. All right, Ms. Quinn, one of the  
11 reasons that they may not want to participate in either  
12 studies with Hydro or in providing information to Hydro  
13 may be as a result of their distrust of Hydro's  
14 policies and promises in the past, is that correct, Ms.  
15 Quinn?

16 A. It may be. I believe in my direct  
17 evidence that I also explained some of the features of  
18 the co-planning of studies, an agreement related to the  
19 co-planning of studies, and we do not require, and this  
20 is explicit, that there be agreement on the outcome of  
21 the studies. We do not require that they agree on  
22 whether or not an environmental assessment should  
23 proceed. There is still a lot of leeway that the First  
24 Nations would have if they chose to participate in  
25 studies. So I hear what you say, I also add other

1 reasons to the list.

2 Q. All right, Ms. Quinn, in looking at  
3 the term co-planning, in my mind that has the  
4 implication of a partnership, work done by two equal  
5 partners. Is that what you're talking about, Ms.  
6 Quinn?

7 A. We have to acknowledge again the  
8 statement of political relationships, and the equality  
9 is really between the First Nations and the  
10 governments. We report to government. So yes, there  
11 is certainly co-operative feature about it all, but to  
12 be precise, the equivalency is more between the  
13 provincial government and the First Nations.

14 Q. And your aim, Ms. Quinn, in  
15 co-planning, would be to arrive at a mutually  
16 acceptable result, is that correct?

17 A. In the co-planning of studies?

18 Q. Yes.

19 A. The doing of studies?

20 Q. Yes.

21 A. I've explicitly said that we would be  
22 involved in doing of the studies, but there is always  
23 the opportunity for the First Nations to disagree with  
24 the results.

25 Q. All right. Let's say, Ms. Quinn, we

1 reach that stage. You've co-operatively done studies,  
2 First Nation disagrees with the results. What will you  
3 do with that information now?

4 A. It would all depend on the study and  
5 the nature of the disagreement.

6 Q. Is it possible that you would use  
7 that information at a hearing to gain approval for a  
8 project?

9 A. Yes, it is, and I think we would have  
10 to be very sensitive to why we would do that, but yes,  
11 that possibility does exist.

12 Q. All right, thank you.

13 Looking at page 46, Ms. Quinn, line 13,  
14 you state:

15 "I am not an expert in Aboriginal  
16 affairs as the people would be who work  
17 within this ministry."

18 I believe you were referring to the  
19 Ontario Native Affairs Directorate.

20 A. That's correct.

21 Q. Ms. Quinn, how long have you worked  
22 for Ontario Hydro?

23 A. It's around 13 years.

24 Q. How long have you worked with First  
25 Nations?

1                   A. Our first involvement with First  
2 Nations was in 19 -- well, in 1981 we started the  
3 Onakawana project, and at that time -- I'm not a  
4 project planner, but at that time members of the group  
5 that I worked with were involved in meetings in  
6 Moosonee, Moose Factory, and we had a liaison  
7 committee. So I would say at least ten years.

8                   And I know during the period of about  
9 1983 we went through review with representatives of  
10 provincial organizations, including the Union of  
11 Ontario Indians, to look at how Ontario Hydro consulted  
12 with various parties around the province, and the  
13 research committee within that particular study  
14 included a Mr. Roy from the Union of Ontario Indians.  
15 So we have had some extensive involvement in the past.

16                  Q. Ms. Quinn, I'm looking actually at  
17 your involvement. Would you characterize your  
18 involvement with First Nations as extensive prior to  
19 the last year?

20                  A. As I say, I'm not a project planner.  
21 My experience isn't extensive, and I, just to speak to  
22 that point, one of the reasons why we want to do  
23 studies with First Nations is because we believe they  
24 have the expertise.

25                  Q. All right, Ms. Quinn. Do you speak

1 any Aboriginal languages?

2 MS. HARVIE: Mr. Chairman, I object.

3 This is ridiculous. I mean this witness is not  
4 qualified as an expert in Aboriginal affairs. She's  
5 clearly stated on the record that she is not, and this  
6 is just badgering the witness unfairly.

7 MS. MARLATT: Mr. Chairman, I think that  
8 since Ontario Hydro has only provided us with one  
9 witness that we can ask questions on with regards to  
10 Aboriginal impacts...

11 THE CHAIRMAN: I thought there were  
12 several witnesses had been answering questions about  
13 Aboriginal impacts.

14 MS. MARLATT: Then perhaps there is no  
15 problem with directing these questions at any of them.  
16 I think I have the latitude to see --

17 THE CHAIRMAN: What difference does it  
18 make to you? Why are you asking this question? I just  
19 don't quite understand.

20 MS. MARLATT: I would like to determine  
21 whether or not there is anyone from this panel who has  
22 expertise in Aboriginal affairs and speaking on  
23 Aboriginal impacts, and one of the ways that my clients  
24 might ascertain that is whether or not they speak an  
25 Aboriginal language, whether or not they have



1 Aboriginal ancestry or whether they have lived on a  
2 reserve.

3 Short of that, it might be my client's  
4 position that none of these people should be speaking  
5 to Aboriginal impacts.

6 MS. HARVIE: Mr. Chairman, none of these  
7 witnesses have been qualified as specific experts in  
8 Aboriginal affairs.

9 MS. MARLATT: All right. Well then  
10 that's fine, if I can take that as the evidence of the  
11 panel.

12 Q. Ms. Quinn, then, would you consider  
13 an elder to be an expert on Aboriginal impacts? Or  
14 let's make that even broader, to be an expert on First  
15 Nations?

16 MS. QUINN: A. I would expect an elder  
17 to be an expert on the activities of the First Nation  
18 that he or she were involved with.

19 [11:05 a.m.]

20 Q. Would you defer to an elder if his or  
21 her opinion differed from yours on an issue related to  
22 impacts arising out of hydraulic developments?

23 THE CHAIRMAN: That question is so  
24 hypothetical. I mean, it's impossible to answer it. I  
25 would suspect it's sometimes "yes" and sometimes "no".

1 MS. MARLATT: Q. Well, let's look at a  
2 specific issue. Say the health impacts from a  
3 hydraulic development on a First Nation?

4 MS. QUINN: A. I'm sorry, what is your  
5 question?

6 Q. The health impacts on a First Nation  
7 from a hydraulic development, if an elder studied the  
8 health impacts and came forward to you and said, "This  
9 is what I perceive the health impacts to be on the  
10 First Nation of which I am an elder," would you defer  
11 to his or her opinion on that matter?

12 A. I would be very respectful of him,  
13 but I am not in a position to take a strong position  
14 one way or the other. I am not an expert in evaluating  
15 what another person's expertise is when it comes to  
16 health.

17 Q. Ms. Quinn, you have spoken about the  
18 priorities of communities, and I refer you to  
19 yesterday's Volume, 89, page 15733, line 17, where you  
20 say:

21 "...all we are really trying to say  
22 is that we wanted to be sensitive to the  
23 decision-making processes that are being  
24 developed and also to the priorities of  
25 the people involved."

1 Ms. Quinn, would you agree that a  
2 community may have its own economic plans for the  
3 future and those plans may conflict with Ontario  
4 Hydro's plans for the area?

5 A. Yes, that is true, possibly.

6 Q. I would like to move into the area of  
7 monitoring and mitigation.

8 Mr. Harris, do you agree that monitoring  
9 methods are not mitigation methods by themselves?

10 MR. HARRIS: A. I think they're a  
11 component of one mitigative approach.

12 Q. But when you monitor the effects on a  
13 reservoir just that information by itself does not  
14 constitute a mitigation effect; there has to be  
15 something beyond that data. Correct?

16 A. That is true.

17 Q. Thank you. One of the purposes of  
18 monitoring may to be check for negative effects that  
19 have not been predicted; is that correct, Mr. Harris?

20 A. Usually monitoring is directed  
21 towards looking for a certain effect, but it's possible  
22 that monitoring might turn up an unexpected effect,  
23 yes.

24 Q. Thank you, Mr. Harris. Mr. Harris,  
25 does Hydro consider reducing the planned capacities of

1 a facility to be a mitigation method? And I will give  
2 you my example. Would you consider using a  
3 run-of-the-river operation rather than a peaking  
4 operation as a mitigation method? This may not be an  
5 appropriate answer for --

6 A. I think perhaps one of my colleagues  
7 might address that.

8 MR. McCORMICK: A. This is typically an  
9 alternative method of carrying out the undertaking and  
10 would be considered at that point in the process,  
11 earlier in the process than mitigation.

12 Q. All right. Mr. Harris, monitoring of  
13 sedimentation rates, mercury levels or navigation  
14 hazards are not in themselves mitigation methods, are  
15 they?

16 MR. HARRIS: A. Strictly the monitoring  
17 activity, no. As I said, I think it is a component of  
18 the mitigative option.

19 Q. Thank you. Unacceptable mercury  
20 levels cannot be mitigated once they exist short of  
21 restricting human users in a system; correct?

22 A. I think there is an area of research  
23 on-going in terms of reducing mercury levels in fish in  
24 existing reservoirs, and so I think the answer to that  
25 would be there are mitigative options available or at

1 least being considered in a research sense even if the  
2 mercury levels rise in fish.

3 Q. But with the state of knowledge that  
4 we have right now today do you have any mitigation  
5 methods other than restricting human users of a system  
6 once you have mercury contamination?

7 A. There are methods, as I said, being  
8 considered. I don't think there is a definitive  
9 statement on their effectiveness yet.

10 For example, actually it has been  
11 considered that since a lot of the methylmercury in a  
12 reservoir may actually be in fish, in Finland efforts  
13 have been made to look at the possibility of removing  
14 methylmercury simply by fishing the reservoir at an  
15 elevated rate but one which still allows the population  
16 to be sustained, that is just an example of one  
17 possibility.

18 Q. All right, Mr. Harris. I am aware  
19 that it is your testimony that there are other  
20 possibilities. Is there anything in place today that  
21 Ontario Hydro recognizes as a proper mitigation method  
22 that has been proven today?

23 A. No, not proven.

24 Q. I would like to ask a few questions  
25 on compensation, referring to page 70, Interrogatory



1 No. 6.2.96.

2 THE REGISTRAR: That will be 109.

3 ---EXHIBIT NO. 367.109: Interrogatory No. 6.2.96.

4 MS. MARLATT: Q. The third paragraph in  
5 discussing the corporate policy on compensation states  
6 that:

7 The policy was initially developed  
8 without Aboriginal or public input. The  
9 policy was developed after working  
10 extensively with communities and changing  
11 social conditions in Ontario.

12 First I would like to ask, who on the  
13 Panel is best qualified to deal with the questions of  
14 compensation? Ms. Quinn, would that be you?

15 MS. QUINN: A. Well, I can start and  
16 others may join in.

17 Q. Ms. Quinn, has the situation changed  
18 where the policy has now been considered with  
19 Aboriginal input?

20 A. Well, the policy was developed in  
21 1983. We have been applying it because it is very  
22 general in nature to projects and I should say to  
23 communities where there are Aboriginal and  
24 non-Aboriginal people, and it has still stood up to  
25 provide enough leeway to meet their needs.

1 Q. So it is a trial-by-fire method?

2 A. What is a trial-by-fire method?

3 Q. Well, you implement a policy in 1983,  
4 you are now using that policy, and you just wait and  
5 see whether or not it is adequate for a local  
6 community's concerns; is that correct?

7 A. We are applying the policy, yes.

8 Q. So you have not directly taken this  
9 policy out into the Aboriginal communities separate  
10 from your project work and said, this is what our  
11 policy says, this is how we go about implementing it,  
12 what do you think?

13 A. We may well have done that beyond a  
14 project level. I am just thinking of some discussions  
15 we might have had with political organizations or other  
16 Aboriginal groups where we would have discussed the  
17 policy in general terms.

18 Q. Can you give me an undertaking, then,  
19 to describe to me when this has happened?

20 A. I guess what I am saying is I am  
21 trying to think of it now.

22 I haven't been at all the meetings  
23 myself, and I know that when the vice-presidents have  
24 met with groups sometimes a variety of questions are  
25 asked of Ontario Hydro. So I believe it would be very

1 difficult for me to give you any specific dates, so I  
2 can't give you have a definitive response.

3 But I believe that this has been subject  
4 to discussion with various members of the Aboriginal  
5 community at various times. It might even have been  
6 informally.

7 We have an Aboriginal and Northern  
8 Affairs Sub-committee of our board of directors, and  
9 they meet with members of the Aboriginal community. It  
10 may have been something that they have discussed.

11 But I don't think that I can go around  
12 the Corporation and get a list of all the times when  
13 this particular policy has been discussed with  
14 Aboriginal people above and beyond project work.

15 Q. Well, Ms. Quinn, are you saying then  
16 that on a planning level the corporate policy on  
17 compensation has never been formally discussed with  
18 First Nations?

19 A. No, I'm not saying that.

20 Q. Well, Ms. Quinn, why could you not  
21 give me an answer as to whether or not formally it has  
22 ever been discussed?

23 THE CHAIRMAN: What do you mean by  
24 "formally"?

25 MS. QUINN: Yes.

1 MS. MARLATT: Q. I mean in a documented  
2 fashion where questions were asked and answers were  
3 documented and if issues were raised that there were  
4 deficiencies in the process whether or not those  
5 deficiencies have been dealt with, just as they did  
6 with the demand/supply option study.

7 MS. QUINN: A. This is a corporate  
8 policy. It's not a plan.

9 Q. I understand that, Ms. Quinn.

10 A. It's quite a different mechanism  
11 within a corporation and its management tools.

12 When it was developed we had already been  
13 working, as I mentioned earlier, with representatives  
14 of provincial-level organizations on consultation, and,  
15 as I mentioned, there was a member from the Union of  
16 Ontario Indians who was involved in particular groups  
17 that did extra work on that process.

18 This policy was being developed around  
19 the same time. I believe it would have been discussed  
20 then, but I won't be able to find you the documentation  
21 you are referring to.

22 Q. So you can't tell me that this policy  
23 specifically was shown to and discussed with a member  
24 of the Union of Ontario Indians that you have referred  
25 to?

1 MR. McCORMICK: A. I think there is  
2 something I might add here. I am not sure of meetings  
3 that have taken place, but I am aware that this policy  
4 is described in the Little Jackfish environmental  
5 assessment, the Mattagami environmental assessment.  
6 People have had access to it. It has been subject  
7 therefore to government reviews and public reviews.

8 Q. Then perhaps we can just close this  
9 discussion by saying: Has the policy been changed  
10 since 1983?

11 MS. QUINN: A. No.

12 MS. MARLATT: Thank you. I believe those  
13 are all my questions, Mr. Chairman.

14 THE CHAIRMAN: Thank you, Ms. Marlatt.

15 Mr. Allison, you are next. Are you all  
16 organized or would you like to take a break?

17 MR. ALLISON: I can proceed. I should  
18 think I would be between an hour or two.

19 THE CHAIRMAN: Why don't we take a break  
20 at the normal time, at 11:30?

21 MR. ALLISON: That is fine.

22 CROSS-EXAMINATION BY MR. ALLISON:

23 Q. Panel, it had been my intention to at  
24 the outset determine a little bit --

25 THE CHAIRMAN: Perhaps we should have on



1 record who it is you are representing.

2 MR. ALLISON: Of course. My name is Brad  
3 Allison. I am here as counsel for the Ontario Metis  
4 and Aboriginal Association. The Association is  
5 intervening on behalf of a number of off-reserve  
6 Aboriginal communities across the Province of Ontario.

7 Q. I had intended to canvass, panel,  
8 some of your expertise so that I might know how to  
9 direct questions as it relates to Aboriginal matters,  
10 and that may be a sensitive issue, I sense.

11 Nonetheless, I wonder, Ms. Quinn, is it  
12 fair to say in your dealings with Aboriginal people  
13 that there are at times what I might call  
14 cross-cultural issues?

15 MS. QUINN: A. Can you give me a little  
16 help by explaining what you mean by that?

17 Q. Sure. In dealing with the Aboriginal  
18 people has it been your experience that you are dealing  
19 with people from a different cultural background?

20 A. Yes.

21 Q. And does that in itself create at  
22 times some communication problems?

23 A. Yes, and sometimes some benefits too,  
24 but yes.

25 Q. I will refer to those sorts of

1 problems as cross-cultural problems.

2 Am I fair to say that you personally do  
3 not have particular experience in cross-cultural issues  
4 as a study, as a formal field of study?

5 A. That's right.

6 Q. But am I right that you would have  
7 some experience in communicating between two different  
8 cultures?

9 A. Well, I have some. I am a section  
10 head, and there are 16 people in the group, and the  
11 project planners are the ones that are more actively  
12 involved in dealing with the various people involved  
13 with our studies.

14 [11:20 a.m.]

15 I have some experience but I have to  
16 qualify its limitations.

17 Q. All right. Well, I would like to be  
18 sure in terms of this panel. Are there other members  
19 of the panel that have any experience in that field  
20 that I may not know about? Any volunteers?

21 Ms. Quinn, I think I am probably the  
22 sixth lawyer on this panel to ask questions of you with  
23 respect to matters affecting Aboriginal people, and in  
24 many volumes of testimony in chief and in cross, I see  
25 that it is been necessary for you to refer to terms

1 such as First Nations, Aboriginal people, native  
2 people. Do you have a working definition of the  
3 difference between those or are they interchangeable?

4 A. No, they are not interchangeable for  
5 me.

6 Q. I am curious to know your working  
7 definition or distinction, I suppose, between First  
8 Nations and Aboriginal people?

9 A. First Nations for me is a reference  
10 really to a group that constitutes a government. These  
11 are groups that were once called bands. They are  
12 recognized under the Indian Act, the federal  
13 government, and they are now the party with whom the  
14 provincial government has entered into the statement of  
15 political relationships, and often First Nations, but  
16 not always, have land bases that are referred to as  
17 reserves.

18 Q. And Aboriginals?

19 A. Aboriginal is, for me, a much broader  
20 term, and I understand at one point in time Aboriginal  
21 people might have used also the word "native", and they  
22 might have also used the phrase "indigenous people",  
23 and that it can include people who are status/  
24 non-status within the Indian cultures. It can also  
25 include the people from an Inuit background.

1 I actually believe that it extends a  
2 little beyond that, but I am more often concentrating  
3 on Aboriginal as people with some Indian ancestry.

4 Q. When you say "some", in terms of your  
5 working definition, I would like to ask you about  
6 Metis. How does that fit into your framework?

7 A. Yes, Metis are within the broad  
8 phrase of Aboriginal.

9 Q. All right. But I take it from what  
10 you have told me, and I would like you to correct me if  
11 I am wrong, that the Metis then would be a part of this  
12 larger group called Aboriginal people but not a part of  
13 the sub-group known as the First Nations?

14 A. Yes, that's how I understand it.

15 Q. All right. And the First Nations  
16 peoples would be a complete sub-group of the Aboriginal  
17 people? All First Nations people are Aboriginal  
18 people; is that fair?

19 A. Yes.

20 Q. Now, I would to know in which  
21 category, in your thinking, in the answers that you  
22 have given before this Board, would you put a person  
23 who is known, was known as a status Indian living off  
24 of reserve?

25 A. Well, they certainly would be an

1       Aboriginal person.

2                   Q.   Do they also fall in the First  
3       Nations definition that you have used?

4                   A.   I think if they are living off the  
5       reserve it's their choice.

6                   Q.   Then, yes?

7                   A.   They may consider themselves a member  
8       of their First Nation or they may consider themselves,  
9       as I understand it, a member of, for example, your  
10      organization which would represent the people also  
11      living off reserves.

12                  Q.   So I just want to make sure we are  
13      talking the same language when we are using those  
14      terms. So when you refer to First Nations peoples,  
15      that may encompass some off-reserve peoples; am I  
16      right?

17                  A.   Yes. And I appreciate these are  
18      distinctions that are evolving. I am just trying to  
19      stay in touch with those people who are more informed  
-20     and are actually drawing these distinctions, but as I  
21      understand it, that's correct.

22                  Q.   All right. In your evidence in  
23      chief, Ms. Quinn, you referred to a relationship  
24      between Hydro and local communities, and to be fair to  
25      you, I will tell, it's in Volume 82, it's at page



1 14627.

2 Do you have it?

3 A. Not quite yet. There we go.

4 Q. I am just looking to find you a line  
5 reference. You have an answer beginning at line 10 and  
6 the last sentence of it at line 19 says that:

7 "This relationship between the project  
8 proponent and local communities may be  
9 characterized as a partnership."

10 Right?

11 A. Right. That's relating specifically  
12 to impact management.

13 Q. Yes. Now, does that characterization  
14 of the relationship apply vis-a-vis native communities  
15 specifically, Aboriginal communities?

16 A. Yes, and that would include both  
17 people associated with First Nations or people who are  
18 Aboriginal not associated with First Nations.

19 Q. Would it be fair to say that this is  
20 a relationship that the proponent, Hydro, has not been  
21 successful in securing with all Aboriginal communities?

22 A. That's fair. But I would say this  
23 particular reference is really how we would like to  
24 work in the process of impact management of a  
25 particular activity.

1 Q. I am more interested in the  
2 relationship as it is, or as it was at the time that  
3 the DSP was filed.

4 You would be familiar with the nature of  
5 relationships between Aboriginal communities and Hydro  
6 as of that point?

7 A. I would have some understanding of  
8 it. I don't think that Ontario Hydro had extensive  
9 working relationships with Aboriginal communities prior  
10 to that time.

11 Q. This is an evolving process, is it?

12 A. Yes, it is.

13 Q. These are relationships that are  
14 developing?

15 A. Yes, that's fair.

16 Q. And for the purposes of my questions,  
17 I am interested in knowing the state of affairs up to  
18 the time that the DSP was filed and less, for my  
19 questions, interested in what may happen next year.  
20 All right?

21 Now, up until the DSP was completed were  
22 there any partnership relationships between - as you  
23 have characterized it - between the proponent and  
24 Aboriginal communities?

25 A. The Demand/Supply Plan was filed in

1 December of 1989.

2 Q. That's correct.

3 A. We were in the process of negotiating  
4 with the Whitesand First Nation, the specific study  
5 that has been referred to earlier, and that was signed,  
6 I believe, in the spring of 1990. So, we were involved  
7 in that.

8 And since the phrase "partnership" here  
9 is really used to describe the particular impact  
10 management activity, Little Jackfish was the only  
11 project where we had really reached that stage at that  
12 point in time. I would just double check with my  
13 colleagues on that, but I don't believe that work on  
14 other projects had advanced to the stage of impact  
15 management at that time.

16 Q. And my understanding is that there  
17 are more than a hundred off-reserve Aboriginal  
18 communities in Ontario. Does that surprise you? Does  
19 that seem correct to your understanding?

20 A. I am aware there are more than that.

21 Q. At least a hundred, put it that way.

22 A. Yes.

23 Q. Would it be fair to say that a  
24 partnership relationship up to the point at which the  
25 DSP was completed and filed would not have been

1 established with the majority of those communities; is  
2 that fair?

3 A. That's fair, but again, this is all  
4 within the context of one particular activity within  
5 environmental assessment project level work. So, I  
6 wouldn't expect the notion of partnership to be the one  
7 that others would use to describe the relationship in  
8 all of the other activities Ontario Hydro would be  
9 involved in with Aboriginal people.

10 Q. All right. But my understanding is  
11 that your word is "partnership", your choice of term is  
12 "partnership" is in this context; is that fair?

13 A. For that particular activity, yes.

14 Q. Why in this context then did you use  
15 "partnership"?

16 A. Because impact management includes a  
17 range of activities referred to in my direct evidence  
18 and referred to recently by Mr. McCormick and Mr.  
19 Harris and it involves looking at affects and impacts  
20 and jointly deciding the significance of those and what  
21 can be done to minimize, to provide offsetting  
22 benefits, to basically try and make the project fit  
23 more readily into the particular community where it  
24 could be located.

25 Q. My background, of course, is

1 different from yours in a formal sense, and when one  
2 uses the term "partnership" my mind thinks of some  
3 fairly common traits, and I suspect that they don't  
4 fall within your thinking when you utilize the term  
5 "partnership". For example, any relationship with  
6 Hydro that you have seen with an Aboriginal community  
7 is not a partnership in the sense that there is some  
8 equal sharing of responsibilities and profits; is that  
9 fair?

10 A. That's fair.

11 Q. And in your experience with Hydro any  
12 partnership relationships with Aboriginal communities  
13 are not a partnership in the sense that there is a  
14 consensual sharing of decision-making; is that fair?

15 A. I would have thought that that would  
16 be true within the context of impact management, but  
17 beyond that I can't...

18 Q. Beyond that can you think of any  
19 other examples?

20 A. Well, there may be activities that  
21 region's branch undertakes where that's the case.

22 I know that when we were doing our  
23 planning we try to conduct ourselves in that way, but I  
24 don't have examples from across the corporation to  
25 speak to your point.



1 Q. In your context do you mean  
2 partnership to imply that there is an equal right on  
3 the shoulders of each partner to terminate the  
4 relationship?

5 A. Within the impact management  
6 agreements, the formal agreements that we sign, yes,  
7 that is set out.

8 Q. And those are agreements, I take it  
9 that have not ever been signed as yet; am I right?

10 A. They have been on projects but not  
11 projects affecting Aboriginal people.

12 Q. Now, I would like to focus, if I  
13 might, for a few moments --

14 THE CHAIRMAN: Perhaps this would be a  
15 good time to take the break.

16 MR. ALLISON: Yes, certainly.

17 THE CHAIRMAN: Thank you, Mr. Allison.

18 We will take a break for 15 minutes.

19 THE REGISTRAR: This hearing will take a  
20 15 minute recess.

21 ---Recess at 11:34 a.m.

22 ---On resuming at 11:52 a.m.

23 THE REGISTRAR: Please come to order.  
24 This hearing is again in session. Please be seated.

25 THE CHAIRMAN: Mr. Allison?

1 MR. ALLISON: Thank you, Mr. Chairman.

2 Q. Ms. Quinn, to recapitulate very  
3 quickly, my understanding from what I've learned so far  
4 is that there is an ongoing development in the  
5 relationship between Aboriginal communities and Hydro,  
6 is that correct?

7 MS. QUINN: A. Yes, that's fair.

8 Q. Most of it being developed after the  
9 DSP was prepared and filed?

10 A. Our corporate Aboriginal relations  
11 guidelines were adopted, yes, in 1990. They were being  
12 developed during that time when the DSP was filed, but  
13 they wouldn't have been adopted until after that time.

14 Q. I did not ask you this yet, but would  
15 it be fair to say that the approach Hydro is now taking  
16 is continuing to change and is moving toward a  
17 partnership relationship with communities directly  
18 affected by specific development? Would it be fair to  
19 characterize the development, the change in the  
20 relationship that way?

21 A. Well, we're certainly trying to work  
22 with communities in a way where they participate more  
23 in the doing of studies, and even if they don't  
24 participate in those particular studies during the  
25 particular activity of impact management, it does

1 really require that parties sit down at the same table  
2 and discuss how they would like to see affects dealt  
3 with. So in that realm it's true.

4 Q. Okay.

5 A. I should just remind you that at the  
6 time when Ontario Hydro was seeking public input on the  
7 demand/supply option study, that Aboriginal groups were  
8 invited to participate.

9 Q. Yes, I'll ask you about that.

10 A. Okay.

11 Q. You've told me somewhat the direction  
12 in which the changes are headed. Can you tell me a  
13 little bit about where they've come from? In other  
14 words, what was the approach of Hydro at the time that  
15 the DSP was being prepared and planned, up until it was  
16 filed?

17 A. Well, we had worked with -- I  
18 apologize for the repetition of all of this, but we had  
19 worked with representatives of provincial  
20 organizations, including in a particular case, it was a  
21 person from Union of Ontario Indians, on a study to do  
22 with how Ontario Hydro's consultation programs worked,  
23 the extent to which people's expectations were met and  
24 so on. So in that, that was in 1983.

25 I mentioned earlier in 1981, in the

1 Onakawana project we worked specifically with First  
2 Nations, and the first time Little Jackfish was started  
3 was 1981, and we were working with Aboriginal people  
4 and First Nations during that time.

5 I would say that we began to realize that  
6 Ontario Hydro in about -- I guess it was about 1984-85,  
7 that the whole corporation needed to become better  
8 co-ordinated, need to bring more attention to certain  
9 initiatives that couldn't just be launched through one  
10 project, and I'm thinking employment opportunities, for  
11 example, training, in that sense.

12 So we put together a committee of  
13 vice-presidents, and they really are the  
14 vice-presidents with responsibilities that affect  
15 Aboriginal people as customers, as employees, as  
16 business people and as project people, and affected by  
17 projects then as governments as well. And we developed  
18 what was called an Aboriginal relation steering  
19 committee.

20 That committee commissioned some studies,  
21 two of which had to do with the public consultation and  
22 how, from an outside perspective Ontario Hydro's track  
23 recorded been over time with regards to Aboriginal  
24 communities, and that was looking at the full range of  
25 corporate activities, not just specific projects. So

1 we were trying to inform ourselves of what the history  
2 had been and how we should change things.

3 So that committee is now in place still,  
4 and they are the ones that worked out the corporate  
5 Aboriginal relations guidelines that were adopted in  
6 1990.

7 Q. When did the Aboriginal relations  
8 steering committee come into being?

9 A. When was it formed?

10 Q. Yes.

11 A. It would have been in 1989, and it may  
12 with well have been in the summer of 1989 or the fall.

13 Q. Now Ontario Hydro has a new  
14 vice-president that deals in part with Aboriginal  
15 affairs, is that right?

16 A. Yes, northern Aboriginal affairs.

17 Q. And that was a position created in  
18 1991?

19 A. Yes. It was just effective in  
20 September.

21 Q. You mentioned a vice-presidential  
22 subcommittee.

23 A. Yes, this is this Aboriginal  
24 relations steering committee.

25 Q. I'm sorry. Is that different from



1 the collection of vice-presidents that you mentioned?

2 A. No.

3 Q. That is the same committee?

4 A. That is the collection of  
5 vice-presidents, but we also have a subcommittee of the  
6 board of directors.

7 Q. What's that called?

8 A. Northern and Aboriginal affairs  
9 subcommittee of the board of directors.

10 Q. Northern and Aboriginal affairs--

11 A. Subcommittee.

12 Q. --subcommittee...

13 A. Of the board of directors.

14 Q. When did that come into existence?

15 A. I believe that was in -- I think it  
16 was announced in September of this year.

17 Q. Now --

18 A. Approximately.

19 Q. That's fine. Can you help me as to  
20 how Hydro would deal with the concerns of a specific  
21 Aboriginal community, perhaps with respect to a  
22 specific project, let's say, before these various  
23 installations, before the vice-president, before the  
24 steering committee, before the subcommittee? How did  
25 you deal with it then? Where did you come from is what

1 I'm asking.

2 A. Hydro might have learned about a  
3 particular interest of an Aboriginal community through  
4 a variety of sources. It might have been something  
5 that was mentioned to people who are community  
6 relations officers, who work in regions branch, they  
7 might have been mentioned to people who work in  
8 particular stations, they might have been mentioned  
9 through a letter to the president, it could have been  
10 through one of our projects.

11 Just about anybody within the corporation  
12 who is out in the field might have heard of something,  
13 although it's quite likely that only certain people  
14 working on activities that would have brought them in  
15 close proximity with Aboriginal communities would have  
16 been the most likely people to hear about it. For  
17 example we have a group that deals with remote  
18 electrification. They may have heard.

19 Q. So I take it that the lines of  
20 communication were more formalized in the last couple  
21 of years, is that fair?

22 A. Yes. You see, any of these groups  
23 I've referred to might fall under different  
24 vice-presidents.

25 Q. And I take it that part of the

1       rationale for formalizing the process was to improve  
2       the process?

3                   A.   Yes.

4                   Q.   Is that fair?

5                   A.   To provide more co-ordination.

6                   Q.   Is it fair for me to infer from that  
7       prior to 1990 your relationship and communication  
8       wasn't so hot?

9                   A.   Well, I wouldn't necessarily know.  
10       It may well have been that when a particular concern  
11       was brought to the attention of someone in region's  
12       branch, that region's branch dealt with it quite  
13       adequately. All we know is that concerns started to  
14       come in that required more co-ordination and more  
15       senior level attention.

16                  Q.   Well, I'd like to look, take you back  
17       to the beginning of your evidence in chief. In fact I  
18       think you were given the dubious honour of the first  
19       question for the panel on Panel 6. I don't think you  
20       need to refer to it in the transcript, but essentially  
21       you were asked by my friend, Ms. Harvie, to describe  
22       the planning processes that led up to the DSP.

23                  Your response generally, you talked about  
24       the fact that the early '80s there was an initiative by  
25       Hydro to undertake an extensive planning exercise.

1 That from '84 to '87 it led to the demand/supply option  
2 study, and from that, that resulted in the development  
3 of the draft demand/supply planning strategy in  
4 December of '87, and of course we move along from there  
5 ultimately to the DSP, which is filed December of '89.  
6 Do you recall that general pile of evidence?

7 A. Yes.

8 Q. You went on to describe, in response  
9 to questions given you, the public input that was  
10 underway throughout the course of what appears to be  
11 principally the 1980s. Do you recall that?

12 A. Yes. Are you thinking of the options  
13 study and the strategy?

14 Q. Yes, you were asked questions about  
15 that specifically. Part of my understanding of your  
16 evidence is that Hydro was looking for a broad public  
17 input, is that fair?

18 A. Yes, that's fair.

19 Q. As a result, Hydro saw fit to provide  
20 several opportunities for public input, correct?

21 A. Yes.

22 Q. Some were to the public and some were  
23 otherwise?

24 A. Yes. There was a provincial level  
25 program and a regional level program, and there was

1 also consultation with members of local utilities and  
2 our direct customers.

3 Q. At the provincial level, my  
4 understanding of your evidence is that there were more  
5 than 100 provincial level groups invited to  
6 participate.

7 A. Yes, that's right.

8 Q. And some of those, I take it, would  
9 have been Aboriginal?

10 A. I believe there were nine that were  
11 Aboriginal.

12 Q. Do you have any idea as to how many  
13 of them were off-reserve Aboriginal groups?

14 A. I am sorry, how many were?

15 Q. How many were off-reserve Aboriginal  
16 groups as opposed to First Nations?

17 A. They weren't First Nations. They  
18 were at a more provincial level, all of them. That was  
19 the nature of the program.

20 Q. And nine were invited, is that your  
21 recollection?

22 A. Yes, nine various groups.

23 Q. Do you know what response if any you  
24 got?

25 A. I know that three groups in the end



1 did attend some meetings, and I think we expected from  
2 the response that a fourth would attend, but they  
3 didn't.

4 Q. Further I think your evidence was  
5 that some 35 different briefs were prepared and  
6 submitted?

7 A. Yes.

8 Q. Do you recall how many of those would  
9 have been from off-reserve Aboriginal community groups?

10 A. None.

11 Q. Further there was opportunity for  
12 involvement at a regional level, is that correct?

13 A. Yes.

14 Q. And my understanding of that was that  
15 Hydro initiated communication with certain community  
16 leaders and invited them to organize or convene  
17 meetings in their region, is that the idea?

18 A. Yes.

19 Q. Did that include initiative by Hydro  
20 communicated to leaders of Aboriginal communities?

21 A. No, Hydro wouldn't have taken the  
22 initiative.

23 Q. It would not have invited them to  
24 have done that?

25 A. It would have been the community

1 leaders that would have been doing the inviting. The  
2 identification and invitation process was really their  
3 responsibility.

4 Q. Okay, but would they have gotten the  
5 idea or the push, as it were, from Hydro?

6 A. We certainly asked them to think  
7 about who it was in the community they thought would be  
8 interested in long-term electricity planning, and we do  
9 know that some people approached were not interested in  
10 the topic, so we don't know how many people each  
11 community lead would have had to have ask before they  
12 were able to have commitments to attend.

13 Q. Did Hydro make that request of  
14 Aboriginal community leaders?

15 A. No, the locations were geographical  
16 in nature, or they were chosen from a geographical  
17 basis, I should say, but the people who could attend  
18 would have been from communities or interests within  
19 the region.

20 Q. But I just want to make sure I  
21 understand this. My perception of it is that Hydro  
22 suggested to various community leaders that they  
23 convene meetings, right?

24 A. Yes.

25 Q. And my question is, did that

1 suggestion go out from Hydro to any Aboriginal  
2 community leaders?

3 A. That they convene meetings?

4 Q. Yes.

5 A. No, not that they convene the meeting  
6 per se.

7 Q. Was there a separate process for  
8 input from Aboriginal communities, or were they grouped  
9 together with the public forum, as you've described it?

10 A. No, they were included in the  
11 invitations along with others. There wasn't a separate  
12 process.

13 We do know that in Atikokan there was  
14 attendance from someone from the Native Friendship  
15 Centre. I believe that represents an off-reserve  
16 group.

17 Q. Is it fair for me to conclude that  
18 the public input process that led up to the DSP met  
19 with limited input from off-reserve Aboriginal people?

20 A. I think that Aboriginal people in  
21 general, both on and off-reserve, did not really  
22 respond to the opportunities to any great extent.

23 We do know that the Select Committee on  
24 Energy also had days when they heard from members of  
25 the public, and I believe that at the draft

1 demand/supply planning stage that OMAA did make a  
2 submission to them, and that Select Committee sat with  
3 regards to the option study and the strategy. So that  
4 isn't something that Ontario Hydro would have had  
5 responsibility for, but the opportunities were also  
6 provided there.

7 Q. Can you tell this Board where the  
8 Select Committee would have sat?

9 A. Would have sat?

10 Q. Yes. Different locations?

11 A. My recollection is that they really  
12 stayed in Toronto. Can I just check with Mr. Snelson?

13 Q. Certainly.

14 MR. SNELSON: A. I believe they held  
15 their hearings in Queen's Park, yes.

16 Q. So the gist of it that I get is that  
17 there is an effort made, an initiative by Hydro to  
18 receive public input. It's not segregated between  
19 non-Aboriginal input and Aboriginal input, but it's  
20 public input, and the different efforts are made to  
21 initiate meetings, to call together people and inform  
22 them, is that the idea?

23 MS. QUINN: A. Yes.

24 Q. And to receive from them their  
25 comments and reactions, is that right?

1 A. That's fair.

2 Q. All of that met with some but a  
3 limited amount of response from the off-reserve  
4 Aboriginal people?

5 A. Yes, that's fair.

6 Q. Now in fairness some of those  
7 meetings would have been at Queen's Park, some of them  
8 may have been local, regional meetings in various parts  
9 of the province, is that fair?

10 A. Yes, the regional meetings were  
11 throughout the province.

12 Q. And I take it the whole purpose of  
13 this process was to get to some sense of the common  
14 good of what the people of Ontario felt was in the best  
15 interests of the province as it related to Hydro's  
16 plans. Is that the idea?

17 A. Yes, they were asked to speak to the  
18 kinds of planning considerations to do with the topic  
19 of supply, the topic of demand, and in general how  
20 electricity service, or what the characteristics of  
21 electricity service were that were important to them.

22 Q. My understanding from your evidence  
23 in chief was that as a result of that, the findings of  
24 Hydro were in -- you described them in five categories.  
25 Briefly you categorize them as reliability, diversity



1 and flexibility, rehabilitation, natural and social  
2 environment and economic development. Have I got that  
3 right?

4 A. May I just refer to my direct  
5 evidence?

6 Q. Certainly. It's in Volume 82 at page  
7 14479, if you wish.

8 A. I have my direct evidence in front of  
9 me as opposed to the particular volume.

10 Q. All right.

11 A. Reliability, diversity, flexibility,  
12 rehabilitation, natural and social environment and  
13 economic development, is that the list you said?

14 Q. Yes, yes.

15 A. That was not all of the input, those  
16 was just some that I thought were helpful for the Board  
17 to hear about.

18 Q. These were categorizing evidence in  
19 chief as findings that you felt ought to be brought to  
20 the Board's attention, right?

21 A. Yes.

22 Q. Findings meaning that these were  
23 things learned through the process of public input? Am  
24 I right?

25 A. Yes, that's correct.

1 Q. I have a suspicion that you knew  
2 about those five before the public process, I mean they  
3 don't come as a great surprise, did they?

4 A. I don't know, to be honest. There  
5 may have been some of these topics that we understood  
6 to be important, but over time certain topics changed  
7 in prominence.

8 Q. All right.

9 A. So there would have been some new  
10 things certainly learned during all those activities.

11 Q. I can appreciate that the emphasis of  
12 the public may not have been something Hydro could  
13 determine, but my suspicion is that these are five  
14 general areas of concern Hydro would have had in mind  
15 when they went into the public forum, right?

16 A. Well, they may well have, but I can  
17 say for one that it's been a bit of a surprise to hear  
18 as much about reliability versus cost, for example.  
19 And certainly there were a variety of other topics  
20 beyond these five.

21 Q. Would they have been five topics  
22 presented to the public for discussion purposes, or  
23 would they have been articulated from the results  
24 received after the public had gone home?

25 A. Articulated from the results

1 received.

2 Q. Now I understand further in your  
3 evidence in chief that hydraulic, you testified, was  
4 preferred by many members of the public. Am I right?

5 A. Yes. That's particularly true during  
6 the option stage.

7 Q. When you use the word preferred,  
8 preferred over what?

9 A. Other options, the technology  
10 options.

11 Q. I get the feeling, and I understand  
12 that they were preferred -- you suggested three  
13 reasons. One was seeming abundance; second, low cost;  
14 third, low environmental impact. Am I right?

15 A. Yes.

16 Q. I'm wondering how they would have  
17 known these things. See, I've got this perception that  
18 the public may have come to discuss the issues of  
19 hydroelectric generation and planning across the  
20 province in various means, that they would have then  
21 explained some of the options and perhaps given some of  
22 the advantages and disadvantages of the options. Am I  
23 right?

24 A. Well, I think they certainly -- there  
25 were discussions about the various options. But the

1 idea was to hear from the public what they had to say,  
2 and we weren't trying to debate with them at that time.  
3 [12:12 p.m.]

4 Q. No, I hear you. I understand that  
5 your mission is to determine what the public perceives  
6 as good; am I right?

7 A. Yes, that's right.

8 Q. And when they decide that hydraulic  
9 is preferred over other options I assume that they have  
10 been told what the other options might be?

11 A. Well, they knew that there were  
12 options that were fossil, or nuclear, or demand  
13 management, whatever else, that's right. They also  
14 were interested in a wide range of options.

15 Q. My suggestion to you is that they  
16 would have perceived hydraulic as preferred for the  
17 reasons you have given perhaps because the issues of  
18 cost relative one source of power to another, the  
19 issues of environmental impact one source or another,  
20 the issues of abundance one source or another would  
21 have been matters of discussion within the public  
22 forum; am I right?

23 A. Yes, they would have been to some  
24 extent.

25 Q. You see my problem? I am not sure

1       how the public would come to the forum and know that  
2       hydraulic was preferred for cost unless they were told  
3       something with about what it cost.

4                   A. I think, as Mr. Snelson said the  
5       other day, that the people there observed that the  
6       costs associated with hydroelectric power are  
7       predominantly capital, that there is less to do, less  
8       cost in the operating stage. That's not something that  
9       takes an extensive presentation to come to understand.

10                  Q. But that would have been clear from  
11       the presentation they were given, I take it; is that  
12       fair?

13                  A. Mr. Snelson was more involved in some  
14       of these meetings than I and might be able to give you  
15       a better reading of how the discussion actually went.

16                  MR. SNELSON: A. At the regional  
17       meetings there was a very brief general presentation of  
18       the discussion, and there was fuller documentation that  
19       was available to people, most likely after the meeting  
20       rather than before the meeting. It was available  
21       before if they wanted it.

22                  The presentations were -- because they  
23       were going to cover all of the options that this  
24       hearing is looking at in about a 15- or 20-minute  
25       presentation, then there was very little opportunity to



1 convey much in the way of detail in terms of  
2 information. So it was a very general presentation.  
3 It was generally given by the Regional Director of the  
4 region involved.

5 Q. Regional Director of what?

6 A. Of the region involved.

7 Q. Was that a Hydro employee?

8 A. That was a Hydro employee, yes.

9 Q. That brief presentation would, though  
10 brief, have dealt with the issues of costs generally?

11 A. I can't recall whether it got into  
12 details of cost.

13 Q. Would you recall whether or not it  
14 would have dealt with the issues of environmental  
15 impact, one power source over another?

16 A. There may have been some general  
17 statements, but I do believe that having heard a lot of  
18 the discussion that people were not overly influenced  
19 by the presentation that was made. In some of the  
20 meetings there were very free-ranging discussions, and  
21 a lot of people had ideas to bring to the meetings.

22 Q. But my understanding is that we don't  
23 know what their perception was when they came to the  
24 meeting. They're given a presentation, and then there  
25 is some record of what their position is at the end of

1 the meeting; have I got it right?

2 THE CHAIRMAN: You are making an  
3 assumption that the people who come to the meeting  
4 don't know anything about the subject, which may be an  
5 unwarranted assumption.

6 MR. ALLISON: I suppose that's a part of  
7 my question, Mr. Chairman.

8 Q. We don't know what information or  
9 what approach the public would have had at the outset  
10 of the input forum; am I right?

11 MR. SNELSON: A. This is with respect to  
12 the regional meetings, and the questions that were  
13 being asked were very general questions in terms of  
14 their preference for demand versus supply, demand  
15 management versus supply, and so on. They were looking  
16 at a very high, broad level type of discussion.

17 MS. QUINN: A. I think there is  
18 something we can learn though, and that is that not  
19 everybody is interested in the topic of long-term  
20 electricity planning. Those people who came probably  
21 would have had an interest for a particular reason, so  
22 I can't imagine that they knew nothing of the topic.

23 Q. But my point in response to the  
24 Chairman's comment is that we don't really know where  
25 they started from; we know what their position was at

1 the end of the forum as you have been able to gather.

2 Am I right?

3 A. Yes. And in my evidence I go on to  
4 say that perceptions changed. I think a few lines --  
5 and I unfortunately am not working from the specific  
6 volume. I go on to say:

7 However, recognition of the remaining  
8 limited economic potential grew as did  
9 caution about flooding, environmental  
10 impact, and disturbance to tourism and  
11 recreational interests.

12 So we are really trying to let you know  
13 that we heard initially a set of perceptions and then  
14 those perceptions seemed to changed.

15 Q. All right. Mr. Snelson, part of your  
16 evidence was in chief that Hydro has given a high  
17 priority to the orderly development of the remaining  
18 rivers; am I right?

19 MR. SNELSON: A. Yes.

20 Q. And I think, if you wish the  
21 reference, to be fair to you, at page 14486 you went on  
22 to indicate that Hydro must recognize -- at line 22?

23 A. I have just got the volume.

24 Q. 14486.

25 A. Yes?

1 Q. Line 22. I believe in response to a  
2 question given you, you went on to say that we, Hydro,  
3 also have to recognize that the concerns of other users  
4 of the river systems have to be taken into account;  
5 right?

6 A. That is correct.

7 Q. Now, part of the problem with  
8 hydroelectric development, as I understand it, is that  
9 sometimes the competing uses for the river are not  
10 compatible; is that fair?

11 A. That may be the case. I think that  
12 others could speak to the specifics of that.

13 Q. In terms of situations wherein the  
14 competing uses are not compatible it becomes a little  
15 more difficult to take those competing uses into  
16 account; am I right?

17 A. I believe I have said elsewhere in my  
18 direct evidence that we as planners recognize that  
19 because of local interests and local concerns regarding  
20 the impact of the specific hydroelectric development  
21 that there will be technical potential that will not be  
22 developed because of those local concerns.

23 Q. Yes. In fact, if I can refer you to  
24 page 14491, this may be the evidence to which you are  
25 referring now. At the top, line 1 on page 14491, you

1 say:

2 We do recognize that the preference  
3 is not one that implies that we should  
4 develop at any cost. There are other  
5 factors...

6 and so on?

7 A. Yes.

8 Q. Is that what you had in mind?

9 A. I believe I expressed that general  
10 idea more than once, and this is one occasion.

11 Q. Okay. My problem is that it seems to  
12 me that in some situations there has to be a trade-off,  
13 there either will be hydroelectric development and  
14 other uses of the river will be precluded or else there  
15 will not be hydroelectric development; am I right?

16 A. I do believe that our attempt - and  
17 Mr. McCormick could probably speak better to that -  
18 through the environmental assessment process and the  
19 choice of specific options and mitigation and so on is  
20 as far as possible to permit the other uses to  
21 continue, and through the environmental assessment  
22 process there may be some tradeoffs such as the one  
23 that you have discussed that have to be made.

24 Q. All right. I don't wish to take away  
25 from the suggestion of Hydro that competitive uses will



1 be considered and accommodated, but I just want to make  
2 sure I'm right on this, Mr. Snelson. Am I right that  
3 in some circumstances those competing interests need to  
4 be sacrificed if the project is going to go ahead?

5 A. There can be occasions on which some  
6 aspects of other uses of river systems would be  
7 significantly changed if the project was to go ahead.  
8 And perhaps Mr. McCormick can speak more specifically  
9 to that.

10 MR. MCCORMICK: A. I guess this is very  
11 much a site-specific consideration as to what uses we  
12 are talking about and how one can go about protecting  
13 them.

14 As Mr. Snelson has indicated, there are  
15 several components of the environmental assessment  
16 process where we try to consider the interests of those  
17 using the basin or reservoir. Reservoir preparation  
18 plan is one case in point where you try to determine  
19 the existing uses of that area and how, what priorities  
20 should be set for the various types of use of the  
21 reservoir, and how you can design a reservoir in a way  
22 that would accommodate as many of those uses as  
23 possible or set some priorities.

24 But, you know, it is a planning and  
25 decision-making process where all the information can

1 be brought to bear and appropriate decisions made.

2 Q. I think I understand what you are  
3 saying, Mr. McCormick, but my question that I put to  
4 Mr. Snelson and I will put to you: Am I right though  
5 that generally with hydroelectric development there are  
6 situations and times in which some competing interests  
7 must be sacrificed if a project is to go ahead?

8 A. It is conceivable that some could  
9 occur.

10 Q. I take it, Mr. Snelson, when you  
11 commented at 14491 that it would not be development at  
12 any cost, that by 'cost' you were not referring to  
13 dollar costs but to socio-environmental costs; am I  
14 right?

15 MR. SNELSON: A. I believe I was using  
16 cost in the general sense that Mr. Kelsey made me  
17 accept in Panel 3 cross-examination. I usually try to  
18 be more careful the use of the word cost.

19 Q. So it is wider than dollars?

20 A. I believe so, yes.

21 Q. This competing interest, this  
22 balancing of interests and to deal with the issue of  
23 sacrifice requires, I take it, some estimation of what  
24 is in the best interests of Ontario; am I right?

25 A. I believe for a specific project then

1 this is the sort of matter that is dealt with through  
2 the project environmental assessment process.

3 Q. And as a proponent involved in that  
4 process am I right that Hydro has to contend with  
5 perhaps the interests of a local community versus the  
6 public good?

7 A. The environmental assessment  
8 certainly has to address those issues.

9 Q. You also indicated, I think, Mr.  
10 Snelson, a little further in your evidence that part of  
11 the balancing was to bear in mind that future  
12 generations -- I think these were your words: Future  
13 generations could benefit from what we do now, just as  
14 we benefit from past development.

15 Do you recall that idea?

16 A. Yes, I do.

17 Q. And I take it, read between the  
18 lines, one sees that what that means is that there may  
19 well be long-term gains that must be put in the scales  
20 when balancing them against the short-term detriments  
21 that may be attributed to a specific project; is that  
22 fair?

23 A. Certainly, hydroelectric development  
24 has long-term benefits. Whether it is a question of  
25 balancing short-term versus long-term, I am thinking

1 very particular in that circumstances about certain  
2 financial matters in that the initial financing of a  
3 project is done by one generation where the project  
4 tends to be quite high in costs and we are benefiting  
5 financially from the previous financial investment of  
6 other generations. But there may also be other aspects  
7 to that.

8 Q. And those other aspects may be  
9 short-term, they may be long-term; am I right?

10 A. Well, the issue of renewability of  
11 the energy source is a very long-term consideration,  
12 which is a contribution to our preference for  
13 hydroelectric.

14 Q. But my question, Mr. Snelson, is  
15 whether or not the balancing must include some aspects  
16 of short-term as well as some that are long-term?

17 A. Well, clearly, the balance has to  
18 take into account the effects over the full period of  
19 time that you expect a project to be under construction  
20 and in operation.

21 Q. Now, I am not sure who on the panel  
22 would care to deal with this, but there has been some  
23 evidence given and some questions asked with respect to  
24 water rental rates, and I don't know if anyone on the  
25 panel can tell me this but does the panel have any

1 handle on why Hydro pays water rates?

2 I mean, I assume they pay them because  
3 they have to, but what's the philosophy behind imposing  
4 a water rental rate? Does the panel know or is that  
5 beyond the scope of this panel?

6 [12:25 p.m.]

7 MR. WIGLE: A. Maybe I could add  
8 something to that.

9 Basically, water rentals are paid in  
10 return for the rights to develop and operate hydraulic  
11 sites, hydraulic stations, and that's a condition for  
12 receiving the permission from the provincial  
13 government.

14 Q. And they are paid to the provincial  
15 government because the provincial government is the  
16 origin of that right, I take it.

17 A. That's correct. We lease the land  
18 from the provincial government.

19 Q. In terms of forecast with respect to  
20 water rental rates, has there been any consideration  
21 given to the prospect that perhaps there ought to be  
22 water rental rates paid to Aboriginal users for their  
23 rights?

24 A. I believe that would be a provincial  
25 government decision, not Ontario Hydro.



1 Q. Has Hydro in its forecasting of costs  
2 come to grips with that issue? Have you given that any  
3 thought?

4 A. No.

5 Q. Mr. McCormick, in your evidence in  
6 chief you gave us some outline of environmental  
7 considerations, am I right?

8 MR. McCORMICK: A. Yes.

9 Q. And specifically you dealt with some  
10 measures taken to limit environmental damage; right?

11 A. I outlined some of the mitigation  
12 alternatives that were available, yes.

13 Q. Am I right that some environmental  
14 damage, even though mitigated, is a necessary  
15 consequence of hydroelectric development?

16 A. There will be some net environmental  
17 effects.

18 Q. My sense of it is that in order to  
19 assess the validity of the mitigating factors, one  
20 needs to come to grips with the severity of the  
21 problem. Do you understand me?

22 A. Yes.

23 Q. So, for example, if one were to talk  
24 about mercury poisoning, in order to assess the  
25 validity of steps taken to reduce the risk of mercury

1 poisoning, I take it one has to bear in mind the  
2 severity of the problem itself in terms of what mercury  
3 poisoning means; does that sound fair?

4 A. I think there is a recognition of the  
5 effects of mercury poisoning.

6 Q. What are they, generally? Mr.  
7 Harris, what is mercury poisoning?

8 MR. HARRIS: A. Well, it's a  
9 methylmercury in particular that gets into humans and  
10 has the potential to cause effects on the central  
11 nervous system.

12 Q. What sort of effects?

13 A. I think I described some of those in  
14 the direct evidence, and I think I have also said I am  
15 not a medical doctor, but it depends on the severity of  
16 the exposure. They can involve, for example, effects  
17 on tremors and mental focus, alertness, muscle tone, at  
18 lower levels of exposure.

19 Q. At higher levels can it be fatal?

20 A. Yes, it can, depending on the  
21 exposure. Severe and fatal cases haven't been  
22 associated with hydroelectric projects to my knowledge.

23 Q. Thus far?

24 A. Excuse me?

25 Q. Thus far?

1 A. That's correct, yes.

2 Q. And there are some effects, I take it  
3 from your evidence in chief, with respect to expectant  
4 mothers?

5 A. It's a possibility, yes. There is a  
6 concern for children whose mothers were exposed to  
7 methylmercury.

8 Q. What is the concern?

9 A. Well, for example, some of the  
10 symptoms I mentioned before in terms of muscle tone,  
11 there have been studies in Quebec which looked at  
12 children whose mothers, while the mothers were  
13 pregnant, were exposed to methylmercury, and there was  
14 an association, a possible association made between the  
15 muscle tone of the children and the exposure of the  
16 mother.

17 Q. For these children the concern  
18 relates to what might amount to permanent disabilities?

19 A. I think the permanence of the effect  
20 is -- I think I would qualify it by saying at severe  
21 exposures the effect can be permanent. At lower  
22 exposures there are cases of where the effects appeared  
23 and then disappeared. I think it is more of an area of  
24 discussion at lower levels of exposure regarding the  
25 permanence of the effect.

1 Q. Would you agree with me that the  
2 problem of mercury poisoning is a long-term problem, if  
3 it arises at all, it's a long-term problem?

4 A. Perhaps you could be more explicit in  
5 terms of what you mean by the problem.

6 Q. Well, I am suggesting to you that if  
7 mercury poisoning is a factor, and I recognize that you  
8 and I may not agree on that, but assume for me that  
9 hydroelectric developments are related to mercury  
10 poisoning, and we are talking now about the uptake into  
11 a human as opposed to as it may be in a fish, that once  
12 that problem arises, that is not a temporal problem  
13 that will pass away, but rather a problem that stays  
14 with us to the next generation?

15 A. I would say that if as a result of  
16 hydroelectric project mercury levels were to rise in  
17 individuals, that it would depend on the severity of  
18 the exposure for any given individual, how long their  
19 problem might last, if it is in fact -- I am going on  
20 the assumption that, as you say, there is a connection  
21 and the methylmercury is associated with the  
22 hydroelectric project.

23 I think there are options in terms of  
24 looking at communities as a whole to take mitigative  
25 actions once mercury levels may have been established,

1 and to undertake, for example, educational programs to  
2 ensure that -- or to make an effort such that down the  
3 road mercury levels dropped, and in fact that has been  
4 seen in Quebec.

5 Q. On page 14621 in your evidence in  
6 chief, I will just read your statement, that was that  
7 one can mitigate mercury by education and by changing  
8 diet.

9 Is that what you are suggesting now?

10 A. I have the page, what line are you  
11 looking at?

12 Q. Actually, beginning on page 14620,  
13 it's a rather nasty, long sentence that begins at line  
14 20 and it winds its way down, at line 24 it continues:

15 "...such as the extent to which the  
16 water bodies are used by people and  
17 related mitigative options such as  
18 monitoring, education, changing the  
19 diet..."

20 Is that what you are referring to?

21 A. I see the statement, perhaps you  
22 could repeat the question connected to it.

23 Q. You indicated that it is difficult to  
24 talk about the severity of the problem because one  
25 might be able to mitigate it in part by education. Do



1       you understand you right?

2                   A. I didn't say that it was necessarily  
3       difficult to establish the severity of the problem. I  
4       said that education is one mitigative option to help  
5       deal with whatever extent the issue arises.

6                   Q. I suppose the problem I have, Mr.  
7       Harris, with the suggestion of education, first of all,  
8       I should be clear that I understand what you mean. Are  
9       you telling me that one way to mitigate it is to tell  
10      people about the hazards of consuming in large quantity  
11      fish that carry mercury?

12                  A. Well, I think in terms of education I  
13      would suggest that it would encompass a few activities.  
14      If you were to monitor fish mercury levels you could  
15      educate people in that sense, what are the levels. You  
16      could educate people in terms the mercury issue and  
17      what the guidelines are and you could -- if you  
18      monitored the mercury levels in people themselves, you  
19      could educate the communities to the status of mercury  
20      levels in the communities. So I think there is a  
21      variety of activities that would go under education.

22                  Q. But the gist of it, I take it, is  
23      that if you are going to mitigate the impact by  
24      educating, the goal is to tell people about the hazard  
25      in the hopes that they will stay away from the hazard;

1 am I right?

2 A. I would say that's reasonable.

3 Q. And that then is related to the  
4 change in diet to which you refer at the top of page  
5 14621; am I right?

6 A. Well, change in diet is one option  
7 you might pursue.

8 Q. But that kind of works hand in glove  
9 with the education; doesn't it? The idea is to stay  
10 away from the fish and change the diet to something  
11 else?

12 A. Well, whether they changed there  
13 diet, I guess it would depend on the particular case.  
14 Whether there was a situation where changing your diet  
15 was warranted, if so, then alerting them to that  
16 possibility would be one practice.

17 Q. I suppose my concern, Mr. Harris, is  
18 this mitigative technique seems to be limited in its  
19 scope, or its role in a community where fishing and the  
20 consumption of fish are major parts of the lifestyle of  
21 that community. Do you see my point?

22 MR. MCCORMICK: A. You seem to be  
23 working on the assumption that the sole source of a  
24 given species might be affected. In fact, Aboriginal  
25 peoples may be fishing in many locations and one of

1 which may be affected by a reservoir, they may be  
2 taking a variety of fish, some of which will be  
3 affected because of either species or size.

4 You have to really go back into the  
5 specific circumstance, the specific site and what will  
6 happen and then you can start making judgments as to  
7 how important these factors are.

8 I think Mr. Harris mentioned about  
9 dietary changes, it was meant in the sense that it may  
10 not be that fish at that length from that location, but  
11 it could be the same species from another location or  
12 it could be a smaller fish from the same location.

13 Q. My difficulty with that answer is  
14 that I am suggesting to you if there is a mercury  
15 problem, that mitigating it by education and change in  
16 diet may have a limited effect in certain communities.  
17 The way I understand your answer is to say there may  
18 not be a problem.

19 What I am suggesting to you is let's  
20 assume that a major source of food and income is  
21 affected. You have to come with me that far.

22 A. Yes.

23 Q. And given that assumption, the  
24 prospect that we mitigate the damage by education and  
25 change in diet has a limited scope.

1                   A. I think we have said on a number of  
2 occasions that if it is a major source of food, and  
3 there are no options, then that's probably a  
4 development that is not worthy of further pursuance.

5                   I think you have got to look at the  
6 specific circumstances and make these judgments with  
7 all of the available information, including the level  
8 use and the options available.

9                   Again, we are proposing to do this in  
10 co-operation with the peoples affected.

11                  Q. Ms. Quinn, you had given some  
12 evidence with respect to how one understands the social  
13 environment. You outlined for the Board in your  
14 evidence in chief, five steps, those being, scoping,  
15 profiling, predicting, assessing or evaluating, and  
16 recommending impact management.

17                  Does that sound familiar?

18                  MS. QUINN: A. Yes.

19                  Q. I take it that's not the only way; am  
20 I right?

21                  A. No, there are other ways, but I had  
22 in mind really of the local environment.

23                  Q. All right. And in the context of  
24 local environment that's not the only way, but that's  
25 the way that Hydro has chosen; am I right?

1                   A. It's the way that the social impact  
2                   assessment and environmental assessment in general has  
3                   developed. It's not just an Ontario Hydro approach.

4                   Q. But can you help me as to within that  
5                   field of studies, it's the only approach. I won't tie  
6                   it to Hydro.

7                   A. I honestly can't imagine what is  
8                   beyond it.

9                   Q. So, it's the only approach that you  
10                  know; am I fair?

11                  A. I can think of specific activities I  
12                  haven't referred to that would be encompassed by it  
13                  that may not come to your mind, but it's quite a well  
14                  accepted approach and --

15                  Q. I don't question that, Ms. Quinn, I  
16                  am just wondering whether or not it's exclusive.

17                  A. No, it's not exclusive.

18                  Q. All right. But it is the only  
19                  approach that Hydro adopted in the context of filing  
20                  the DSP, in the preparation of the DSP?

21                  A. No, it actually refers to the  
22                  development of hydroelectric facilities.

23                  Q. All right. And is it the only  
24                  approach that Hydro has utilized in that context to  
25                  date?



1 A. As steps in the process, yes.

2 Q. Now, I take it it's been sometime  
3 since there was a hydroelectric development in close  
4 proximity to an Aboriginal community in Ontario; am I  
5 right?

6 THE CHAIRMAN: You are talking a new  
7 development, is that what you are mean?

8 MR. ALLISON: Yes.

9 THE CHAIRMAN: A new construction,  
10 because there are developments in close proximity.

11 MR. ALLISON: Yes, I am talking about a  
12 new development.

13 MS. QUINN: And when you say sometime you  
14 are thinking...

15 MR. ALLISON: Q. Well, maybe you can  
16 help me. When was the last time we had a new  
17 development in close proximity to an Aboriginal  
18 community in Northern Ontario?

19 MS. QUINN: A. May I just consult with  
20 some of the others on the panel?

21 Q. Sure.

22 [12:43 p.m.]

23 MR. FLOOK: A. It's a little bit of a  
24 guessing game here because I have to make some  
25 assumptions and move backwards.

1 Q. Go ahead.

2 A. I would consider the two sites, Wells  
3 and Aubrey Falls on the Mississauga River as being the  
4 most recent in the 1970s.

5 Q. Early '70s?

6 A. Early '70s, yes.

7 Q. And they are on the Mississauga  
8 River?

9 A. That is correct.

10 Q. So they would be upstream from some  
11 of the Aboriginal communities, Thessalon?

12 A. Well, Thessalon is not on the river  
13 itself, the Mississauga Reserve and the -- but the  
14 Thessalon Reserve is in the vicinity.

15 Q. Iron Bridge?

16 A. Mississauga Band, yes.

17 Q. Yes. Iron Bridge is outside the  
18 Mississauga Band, though?

19 A. Correct.

20 Q. So we have a number of Aboriginal  
21 downstream communities at that site, Wells and Rayner;  
22 am I right?

23 A. There is one Aboriginal community  
24 downstream; there are more than one in the vicinity.  
25 Thessalon is not on that river system.

1 Q. Is Iron Bridge on that river?

2 A. Iron Bridge is on that river.

3 Q. Is there an Aboriginal community at  
4 Iron Bridge?

5 A. Just downstream from Iron Bridge.

6 Q. You are referring to Mississauga?

7 A. Yes.

8 Q. I am talking about an Aboriginal  
9 off-reserve community, Iron Bridge. Is there one?

10 A. I couldn't tell you off hand.

11 Q. Take from me that there are a number  
12 of Aboriginal communities that are downstream in the  
13 Mississauga River, downstream from Wells and Rayner,  
14 and we will accept Mr. Flook's best guess which is that  
15 Wells and Rayner may have been the last new  
16 development, close proximity to Aboriginal communities.

17 All right, Ms. Quinn?

18 MS. QUINN: A. Yes, all right.

19 Q. Are these five steps what would have  
20 been used back then?

21 A. No, because I don't believe an  
22 environmental assessment would have been undertaken at  
23 that time. It would have been early days in the  
24 Environmental Assessment Act.

25 Q. And in those early days I take it

1 that input from those Aboriginal communities would have  
2 been quite limited then because this process hadn't  
3 evolved; is that fair?

4 A. I wouldn't really know. I don't have  
5 any history on it.

6 Q. So when we talk about these five  
7 steps as it relates to Aboriginal communities I should  
8 be thinking about what will happen, not what has  
9 happened; am I right?

10 A. That's fair. And what happens at a  
11 project-specific stage.

12 Q. Now, in your evidence, Ms. Quinn, you  
13 had indicated at Volume 82, 14627, I will just give you  
14 statement and I will give you the line reference if you  
15 need it, but the relationship -- actually, I'm sorry, I  
16 had already referred you to that.

17 A. We just have one copy that we are  
18 passing up and down. I'm sorry, it's 14627?

19 Q. Yes. I had referred you earlier to  
20 your description of the relationship between the  
21 proponent and the communities as a partnership; right?

22 A. Yes, with regard to impact management  
23 activities. Yes.

24 Q. And then you went on from there to  
25 describe eight steps of impact management; right?

1 A. Eight types of activities, not really  
2 steps. They are various ways in which communities  
3 might choose.

4 Q. And I take it that these again are  
5 not exclusive and that there are only eight types?

6 A. Yes, that's fair. They evolve over  
7 time.

8 Q. I'm sorry? I didn't hear you.

9 A. Yes, it is fair. There are eight and  
10 they will continue to evolve.

11 Q. At present are there others not  
12 encompassed in those eight?

13 A. Well, those are really the eight that  
14 come to mind.

15 Q. So at the present time they are  
16 exhaustive, they are the only eight?

17 A. Well, they characterize what we know  
18 now.

19 Q. When you say "we" do you mean we  
20 Hydro or we in that field of science?

21 A. In the field of social impact  
22 assessment.

23 Q. So at the present time these are the  
24 only alternatives or the only actions that you are  
25 aware of as part of your study? Is that what you are



1 saying?

2 A. I'm saying within the field of social  
3 impact assessment these are eight activities that  
4 relate to impact management. And they are quite broad.

5 Q. They cover the spectrum, though, do  
6 they?

7 A. They tend to, yes. I think I have  
8 also said, though, that because we try to be very  
9 community-specific that it is a dynamic process and  
10 things are invented, things change in order to meet the  
11 needs of a local community. So I hesitate to  
12 characterize them as being the only ways to proceed.  
13 We are certainly open to discussion for variations on  
14 these or new ideas.

15 Q. My response when I read those, when I  
16 heard you testify in that regard, was to think that  
17 there are some impacts which are just totally  
18 unacceptable, totally intolerable, and to talk about  
19 efforts to mitigate them falls short of the mark. What  
20 one needs to talk about are alternatives to avoid them  
21 rather than steps to reduce them. Do you understand?

22 A. Yes, I do.

23 Q. Have you ever run across the Mother  
24 Earth concept in the Aboriginal sense?

25 A. I have.

1 Q. Do you have a working knowledge of  
2 what that means?

3 A. It might be helpful if you could  
4 provide me with a bit of background.

5 Q. Well, let me suggest to you that in  
6 an Aboriginal community the relationship between a  
7 person in the community and the land and the water and  
8 the rocks and the air is a relationship of  
9 mother/child. Does that sound familiar?

10 A. Yes, it does.

11 Q. So when one is talking about  
12 something that may have a detrimental effect on Mother  
13 Earth, if one adopts this concept, then talking about  
14 mitigation isn't a matter of great interest. Does that  
15 make sense?

16 A. Yes.

17 Q. So that if I can be so bold as to  
18 suggest that if one is talking about how to lop off  
19 mother's arm how to do it so it won't be quite so  
20 painful isn't really as important, it isn't a matter of  
21 real interest because the fundamental interest is that  
22 one should not be doing that in the first place. Does  
23 that make sense?

24 A. Yes. I guess, if I can just clarify,  
25 these are impact management activities, and at an

1 earlier stage in the process you may well be looking at  
2 avoidance. You may be doing that at the time you are  
3 looking at alternatives.

4 Q. And if one goes through that process  
5 and gets to impact management the management process  
6 that you have described necessitates active  
7 co-operation from the community; right?

8 A. I believe it does as a professional  
9 in my field.

10 Q. Well, in fact, the first step is to  
11 scope the issues, and I think you said you had to  
12 identify the issues from a local perspective; right?

13 A. Yes. But can you just help me? Are  
14 you talking about impact management or are you talking  
15 about the whole ways to do impact assessment, the five  
16 steps of impact assessment?

17 Q. I am going to be talking about the  
18 five steps of understanding the social environment--

19 A. Okay. Fine.

20 Q. --and that to understand the social  
21 environmental there must be active co-operation from  
22 the local community; correct?

23 A. Yes.

24 Q. Pretty well essential in all five  
25 steps; am I right?

1 A. Yes. Varying degrees, but yes.

2 Q. My point is that is going to be  
3 rather difficult if the effect one is attempting to  
4 mitigate is in effect, in substance is just  
5 intolerable; right?

6 A. Could be. It could be.

7 Q. So if we haven't been able to avoid  
8 that which is intolerable it is going to be really  
9 difficult to get co-operation from an Aboriginal  
10 community, assuming they abide by this Mother Earth  
11 philosophy I have told you about? It's really  
12 difficult to get them to co-operate in mitigating it;  
13 true?

14 A. That's true. I would envision that  
15 it is possible for them to be providing that feedback  
16 to us and that we could go through a discussion of  
17 mitigation enhancement and all of the other things  
18 associated with impact management, and in the end after  
19 some analysis if the local feeling is that despite all  
20 of these efforts that the effect is still intolerable,  
21 then that's something that would be a major influence  
22 on whether or not the project should proceed.

23 Q. I understand. I guess my point is  
24 that if you stay with me on the premise that the  
25 Aboriginal community views the relationship of the



1 individual to his environment as I have described it  
2 and if he perceives the change that the proponent is  
3 suggesting as one which is just intolerable, then it  
4 will be next to impossible for anybody, no matter what  
5 their expertise, to get the co-operation needed to  
6 embark upon the five steps of understanding  
7 environment?

8 A. Well, I guess I am having a problem  
9 because impact management - and you are predominantly  
10 referring to it as mitigation - is something that's  
11 done towards the end of that process that includes five  
12 steps. So you actually want to, through the  
13 environmental assessment process, come to learn  
14 something of the environment and to provide some  
15 analysis of things.

16 It is not a political process. It is an  
17 analytical process. It requires some sense of impacts  
18 given the shades of grey that might occur, the  
19 difference of opinions that may exist on the  
20 significance of those within a local community.

21 But I would have thought that there would  
22 have been the possibility of co-operation for  
23 identifying issues, for discussing some of the effects,  
24 for discussing some of the significance, discussing  
25 some of the impact management, even if in the end a



1 community thought a particular impact was intolerable.

2 I don't think it precludes at the front  
3 end that they wouldn't become involved. They would be  
4 shortchanging all of those steps and the analytical  
5 process.

6 Q. I guess what I am suggesting, Ms.  
7 Quinn, is you may be wrong. That's what I am  
8 suggesting. I need to know whether or not you  
9 understand why I am saying that. I don't expect you to  
10 agree with me.

11 Do you understand where I say that you  
12 may be wrong in that assumption?

13 A. Yes, I understand.

14 Q. In part, I think your evidence  
15 related to this sense of relationship between the  
16 individual and the environment from a native  
17 perspective, I believe it was at 14627.

18 I'm sorry, I haven't the right page  
19 reference, but let me give what your evidence was and  
20 see if you can recall it. I think your evidence was  
21 that the potential to effect change would arise where  
22 communities have strong links to land and water.  
23 Aboriginal communities are also linked in legal,  
24 historical and cultural ways, as recognized by Hydro's  
25 corporate aboriginal relations guidelines. Do you

1 recall that?

2 A. Yes, that's right.

3 Q. What is your understanding of the  
4 legal links that you referred to?

5 A. Well, there are treaty rights, there  
6 are Aboriginal rights. There are also --

7 Q. Is there a distinction between treaty  
8 rights and Aboriginal rights, in your understanding?

9 A. As I understand them. And I am not a  
10 lawyer, but as I understand them they are different.

11 Q. Would you feel confident if I had  
12 asked you to distinguish them or do you feel it is  
13 beyond your scope?

14 A. I really shouldn't.

15 Q. Okay. Any other legal links that you  
16 have in mind when you say that, when you gave this  
17 evidence?

18 A. Well, I am aware of the Indian Act,  
19 and I am aware of the -- I'm not sure if the statement  
20 of political relationships is legal or legislative. I  
21 am not too sure --

22 Q. Or political?

23 A. Or political. I am not too sure how  
24 to characterize that, but I think that within it there  
25 is recognition of legal distinctions, and I know the

1 province is in discussion with other representatives of  
2 Aboriginal communities, and there will be further  
3 distinctions drawn.

4 Q. Do you have in your department  
5 experts to deal with those legal links?

6 A. No, we are not a department that has  
7 lawyers in our group.

8 Q. Are they elsewhere in Hydro  
9 somewhere?

10 A. There is a legal department. Within  
11 our group we have people with backgrounds specifically  
12 in Aboriginal matters.

13 Q. What did you mean when you said  
14 historical links?

15 A. Well, it is really the reference to  
16 the fact that Aboriginal people have been here longer  
17 than western civilization has been, so we understand  
18 that they have a much more extensive history and a  
19 significant one for us to understand.

20 Q. Is there a suggestion here that  
21 because of that they have a better understanding?

22 A. They may. They also have a different  
23 understanding than we do.

24 Q. You referred to cultural links?

25 A. Yes.

1 Q. What do you mean?

2 A. Well, your reference to the Mother  
3 Earth relationship I think is an example of that. Our  
4 culture -- and we are a multi-cultural society so I  
5 shouldn't use 'our', but other cultures within our  
6 society do not have such references.

7 Q. Is it your experience in working with  
8 the Aboriginal communities that there is an us and them  
9 mentality?

10 A. I see that to some extent. It's not  
11 always the case.

12 Q. Do you sense that they perceive that  
13 in your work?

14 A. I think at the front end that often  
15 can be the case.

16 Q. I know that the Board will want to  
17 take a lunch recess, but if I can just give you this  
18 one illustration and then I will ask the Board if it  
19 wishes to rise.

20 The story is it told -- and I will be  
21 very brief, Mr. Chairman. This might illustrate my  
22 point.

23 THE CHAIRMAN: It is going to lead to a  
24 question, I assume; is that right?

25 MR. ALLISON: Oh, it is.



1 Q. The story is told that the Native  
2 people initially felt that they will were alone in this  
3 land with the rocks and the trees and the water and  
4 that another civilization came, cut down all the trees  
5 and forested and clear-cutting and so on, left them  
6 with the rocks and the water, and that this other  
7 civilization later came back and dammed up the rivers  
8 and created power generation and left them alone in the  
9 rocks, and that then this other civilization came back  
10 again, and the native response is: My heavens, they  
11 have come for the rocks.

12 [12:57 p.m.]

13 Now, my question is this: In working  
14 with Aboriginal communities, have you had a sense from  
15 them in their response or their lack of response, that  
16 they perceive Hydro as someone coming back for the  
17 rocks?

18 MS. QUINN: A. Well, our reaction has  
19 been mixed. You are asking a very general question.

20 Q. Yes.

21 A. In some areas we have been able to  
22 sort things out and in others we haven't. And  
23 sometimes it takes time and sometimes it may not  
24 happen.

25 I think we have been quite reasonable



1 here in admitting that there may be undertakings  
2 Ontario Hydro suggests or specific impacts that are not  
3 acceptable to Aboriginal communities, and the results  
4 may be that particular activities don't proceed.

5 So we are not trying to dismiss that  
6 there can be differences.

7 MR. ALLISON: Mr. Chairman, this is  
8 probably an appropriate point to recess, if you are so  
9 inclined.

10 THE CHAIRMAN: Do you have some idea of  
11 how much longer you are going to be?

12 MR. ALLISON: I should think less than an  
13 hour.

14 THE CHAIRMAN: Who is next?

15 MR. MARK: I believe I am, Mr. Chairman.  
16 Mr. Rodger and I have had some debate about that,  
17 depending on the timing of it. At this time it looks  
18 like it's going to be me.

19 THE CHAIRMAN: We will adjourn until  
20 2:30.

21 THE REGISTRAR: This hearing will adjourn  
22 until 2:30.

23 ---Luncheon recess at 1:00 p.m.

24 ---On resuming at 2:35 p.m.

25 THE REGISTRAR: Please come to order.

1 This hearing is now in session. Please be seated.

2 MS. QUINN: Mr. Allison, before you  
3 start, if I may interrupt for a moment.

4 I agreed this morning to advise the panel  
5 of the number of a particular interrogatory that had to  
6 do with the study, with the Whitesand Band, and it's  
7 No. 6.10.65. It attached to that interrogatory.

8 THE REGISTRAR: 6.10.65.

9 MS. QUINN: Thank you.

10 THE CHAIRMAN: Is there a number for it?

11 THE REGISTRAR: 367.110.

12 ---EXHIBIT NO. 367.110: Interrogatory NO. 6.10.65.

13 MR. ALLISON: Q. Mr. Flook, could I draw  
14 your attention, please, to the evidence that you gave  
15 in transcript Volume 82 at 14543.

16 You will see a paragraph that begins at  
17 the very bottom of the previous page wherein you relate  
18 those factors encompassed in an allowance equal to 22  
19 per cent of the direct cost. You will see that the  
20 various elements comprised in that 22 per cent  
21 allowance are listed at the top of 14543. Do you see  
22 that?

23 MR. FLOOK: A. Yes.

24 Q. And among that list, near the end I  
25 see one of the items is the fulfillment of community

1 agreements; is that right?

2 A. That's correct.

3 Q. And by that I take it that you are  
4 referring to community impact agreements?

5 A. Yes.

6 Q. My understanding further is that to  
7 date Hydro has not entered into a community impact  
8 agreement with an Aboriginal community; is that right?

9 A. For hydroelectric projects, that's  
10 correct.

11 Q. Now, I assume that this particular  
12 element represents some fraction of the 22 per cent; is  
13 that right?

14 A. Yes.

15 Q. What fraction?

16 A. I have not assigned a particular  
17 fraction to it.

18 Q. So it's not attributed any weight  
19 with respect to the other elements listed on this page?

20 A. No, I haven't.

21 Q. My question then is, how does one  
22 know that 22 per cent is a reasonable margin if at  
23 least on this one element you do not have experience  
24 with Aboriginal communities? How do we know that that  
25 margin is going to be enough when, among other things,

1 it must cope with the cost of completing a community  
2 agreement when in fact Hydro does not have experience  
3 in Aboriginal communities with community agreements?

4 A. It was a judgment made that based  
5 upon agreements relating to other technologies and  
6 things that have happened elsewhere in Canada.

7 Q. Are you referring to other community  
8 agreements elsewhere in Canada?

9 A. Or within Ontario.

10 Q. All right. And these other community  
11 agreements, would any of those be with Aboriginal  
12 peoples?

13 A. I couldn't say.

14 Q. Does this calculation, in effect, put  
15 a cap on a maximum cost that can be incurred with your  
16 calculations for the purpose of satisfying community  
17 agreements?

18 A. No, I believe it doesn't relate to a  
19 cap or a minimum or anything else.

20 Q. So I take it that before the numbers  
21 would be complete, the cost of the community agreement  
22 would have to be projected?

23 A. As the process went along, correct.

24 Q. I take it that the overall cost of  
25 the project would have to be fixed before one sought

1 approval for the project; is that fair?

2 A. Yes, that's correct.

3 Excuse me, approval internally within  
4 Ontario Hydro to release monies.

5 Q. All right. Now, what about approval  
6 externally in terms of environmental approval?

7 Normally you would fix the cost before you went for  
8 environmental approval; is that fair?

9 A. No, I don't believe so.

10 Q. So that on a specific project one  
11 would seek approval before knowing the economics of the  
12 project?

13 A. You would have a good idea of the  
14 economics but you may not have specified every  
15 individual item on the project.

16 Q. So it might be scoped down but not  
17 written in stone yet.

18 A. Exactly.

19 Q. Or concrete, as the case may be.

20 My understanding, Ms. Quinn, is that  
21 community agreements are not signed until after  
22 approval is given; is that right?

23 MS. QUINN: A. Yes, that's right.

24 Q. Is that external approval or internal  
25 approval as Mr. Flook has distinguished them?



1                   A. Well, it would be whatever approval  
2     is required for the project to proceed, and in this  
3     case we are talking about approvals under the  
4     Environmental Assessment Act, so it would be  
5     externally, either the Ministry of the Environment or a  
6     board such as this.

7                   Q. So that if I understand the process,  
8     Mr. Flook, the costs of the project are going to be  
9     estimated, then the proponent will seek external  
10    approval, and only after that approval is granted, if  
11    it is, that one would then embark upon negotiating and  
12    executing the community agreement. Have I got the  
13    steps right? Is that the sequence?

14                  MR. FLOOK: A. That has been the  
15    sequence of events to date.

16                  MS. PATTERSON: Could I just clarify? Is  
17    the negotiation all done after the approval or is it  
18    done prior to approval as well?

19                  MR. FLOOK: The negotiation may take  
20    place prior to it, although the final signing of the  
21    agreement, let me put it that way, would take place  
22    after.

23                  MR. ALLISON: Q. Until the final  
24    signing, I take it that no one knows for sure what the  
25    terms of the agreement will be; is that fair?

1 MS. QUINN: A. No, that's not the case.

2 Because within our environmental assessments we make  
3 many commitments as to what will be in the agreement  
4 and even undertakings that might be outside of an  
5 agreement.

6 Q. Do the communities make any  
7 commitments?

8 A. They may well. The impact management  
9 is something that's discussed during the planning stage  
10 of the project per se, and they may make agreements as  
11 well.

12 We usually have some kind of  
13 understanding of the topics and the scope and so on, so  
14 discussions are down the road but they are not  
15 complete.

16 Q. I take it it's within the realm of  
17 possibilities that one can embark upon the  
18 environmental process without an understanding with an  
19 affected community; is that fair?

20 A. We would have had discussions as part  
21 of the planning process about impact management, there  
22 would be some understanding about what form impact  
23 management might take, whether it's within an agreement  
24 or outside an agreement. So it's more a question of  
25 degree.

1 Q. Do you see the problem I am  
2 perceiving here, that potentially it seems to me on a  
3 particular project, a community could be opposed to the  
4 project, could take that position at an environmental  
5 process, approval could be given and at that point the  
6 proponent would want to embark upon a community  
7 agreement, I take it. Am I right? Isn't that a  
8 possible sequence?

9 A. It's very unlikely. It's really an  
10 upfront part of what we discuss when we are talking  
11 about effects and significance of effects and how to  
12 manage then. So, it would have begun much earlier than  
13 that that the specifics would have been discussed.

14 Q. So you are saying it's very unlikely  
15 that you would go into a hearing with a community  
16 opposed?

17 A. No, I'm sorry, I thought -- I thought  
18 you were talking about whether or not we would have had  
19 an understanding completed with a community before  
20 going into a hearing.

21 Q. Okay, so I just want to break that  
22 down. You are saying that you would not normally  
23 embark upon a hearing without some understanding with  
24 the community; is that what you are saying?

25 A. Yes, that's right.

1 Q. In a theoretical example, if the  
2 community is opposed to the project, how do you come to  
3 terms with a community impact agreement that deals with  
4 the impacts of a project they wish to oppose? How do  
5 you get the terms of how we are going to play the game  
6 if you win if the community is saying, we don't want  
7 you to win, we take the position you ought to lose?

8 A. We can still make commitments on our  
9 part to do certain things.

10 Q. I agree. My question is: How do you  
11 expect to get the community to make commitments to come  
12 to an understanding?

13 An understanding is a two-way thing;  
14 isn't it?

15 A. Right. If the community is absenting  
16 themselves completely from the environmental impact  
17 assessment work, that's difficult. But if they been  
18 involved in different stages and there is one point of  
19 disagreement but several of agreement, you usually had  
20 discussions.

21 It's not as though you are operating in a  
22 black or white situation very often. There usually  
23 shades of gray and you know something of what their  
24 concerns are and what their preferences are.

25 Q. I take it from your comments that the



1 scenario I am suggesting is unlikely, and I will accept  
2 that for the moment.

3 Let's assume that the issue before this  
4 environmental process, before the hearing, is one which  
5 is the proponent's application is thoroughly  
6 intolerable to the community, it seems to me that your  
7 system breaks down if part of the process that you  
8 intend to follow is an understanding during the hearing  
9 and a formal agreement after the hearing, that's going  
10 to breakdown if the community is diametrically opposed  
11 to the project from the outset. Do you see my dilemma?

12 A. If the community is diametrically  
13 opposed and also chooses not to have any discussions  
14 with you, yes. But it's not necessarily the case that  
15 they are opposed and also choose to be so remote that  
16 they are not having some kind of discussion.

17 Q. If I were a more critical person --

18 THE CHAIRMAN: I am not sure what this is  
19 all getting to. This sounds to me like a very  
20 site-specific kind of discussion you are having. If  
21 people don't agree, you can't have an agreement. That  
22 is pretty fundamental.

23 MR. ALLISON: It would seem so to me.

24 Q. Mr. Harris, you have been asked many  
25 questions about mitigation of mercury poisoning, and I



1 don't intend to review that.

2 I do wish to put to you a position that  
3 my clients may well expound and may put forward as part  
4 of their case, I thought I should give you an  
5 opportunity to respond. I would like to give you a  
6 short statement and ask you to respond as to whether  
7 you agree or disagree.

8 The statement is this: Elevated mercury  
9 levels in fish following a reservoir impoundment is a  
10 widespread problem. Many factors appear to influence  
11 the mercury levels which make it impossible to predict  
12 the severity the problem at a given reservoir,  
13 especially if there is no previous experience in the  
14 same area.

15 It's kind of lengthy so perhaps I will  
16 just give it to you in pieces.

17 Part of the case may well be this: That  
18 elevated mercury levels in fish following a reservoir  
19 impoundment is widespread.

20 Do you agree or disagree?

21 MR. HARRIS: A. I agree that in  
22 situations involving flooding there would be usually an  
23 increase in the fish mercury levels, the extent of the  
24 increase would vary.

25 Q. And further: Many factors appear to

1 influence the mercury levels which make it impossible  
2 to predict the severity of the problem at a given  
3 reservoir.

4 How do you respond to that?

5 A. I think I would say that we lack an  
6 accurate predictive capability. We do have some  
7 capabilities in terms of trends and based on previous  
8 experiences elsewhere what the levels might be.

9 Q. Finally, is that especially true  
10 where there is a lack of previous experience in the  
11 same area?

12 A. Sorry, is what especially true?

13 Q. The suggestion that many factors  
14 influence mercury levels and it is difficult to predict  
15 them?

16 A. I would say the experience within the  
17 same region does provide you with some additional  
18 insights.

19 Q. And therefore the absence of that  
20 information puts you at a disadvantage relatively; is  
21 that it?

22 A. I prefer to phrase it the other way.

23 Q. I'm sure you do.

24 Have you been good enough to tell us all  
25 of the mitigation steps that you have in mind? Have

1       you told the Board all of the mitigation steps that are  
2       possible?

3                   A. The direct evidence and Exhibit 333  
4       lists a fair number of options. I think there are  
5       probably a few others which might be thought of at the  
6       case-by-case stage.

7                   Q. Is it fair to say that these efforts  
8       to alleviate the problem are virtually untested by  
9       Hydro at this point? By untested I mean  
10      experientially?

11                  A. Well, in terms of the experience in  
12      mitigating the increase in fish mercury levels, there  
13      has been some experimental work down, for example,  
14      looking at the effect of organic matter on  
15      methylmercury production. In Manitoba, for instance,  
16      they did some experimental work and found that there  
17      was indeed a connection and in fact some of the  
18      Manitoba studies concluded that organic matter was a  
19      driving force in this issue and that the increase in  
20      methylmercury production is directly proportional often  
21      to the amount of organic matter, which then I think  
22      gives us some reason to think that mitigative efforts  
23      to reduce the amount of organic material in a reservoir  
24      through a reservoir preparation plan would help.  
25      [2:51 p.m.]

1                   So that yes, it's untested in terms of  
2                   actual reservoir situations, yes, but there is some  
3                   experimental work that gives us some insights.

4                   Q. My attention has been drawn to  
5                   Exhibit 118, which is a Hydro document entitled  
6                   "Mitigation of Mercury Effects in Newly Created  
7                   Impoundments of Reservoirs". I am sure you are  
8                   familiar with that document.

9                   A. Yes, I am.

10                  Q. On page 11 I see there is some  
11                  reference to selenium. Do you see that? It's page 11  
12                  of the report.

13                  A. Yes, I do.

14                  Q. What is this substance?

15                  A. Selenium is an element I believe that  
16                  can be added to an aquatic system, and it can affect  
17                  the uptake of mercury in fish and the distribution of  
18                  mercury in fish.

19                  Q. Is this one of the mitigation steps  
20                  that you consider a possibility today?

21                  A. We are aware of it. Yes, we look at  
22                  it, but selenium is itself a toxic substance, and we  
23                  therefore are cautious about its use. But it has been  
24                  tried in Sweden, for example, and so we are aware of  
25                  it, but I don't think we would be promoting it today as

1 a preferred option.

2 Q. Why? Or why not?

3 A. Well, I think because of the concerns  
4 for the toxicity of selenium itself.

5 Q. Have there been any studies to your  
6 experience about the effects of sort of a cumulative  
7 effect where there may be a series of hydroelectric  
8 developments in one water system?

9 A. In the case of the Manitoba  
10 experience, I think Exhibit 400, which is an article  
11 looking at a model to predict mercury levels in fish,  
12 refers to the significance of an upstream component.

13 That particular model looks at the  
14 contribution to methylmercury in fish both from the  
15 reservoir itself and from upstream, and they concluded  
16 that the upstream component was important, and in that  
17 sense I think there is an acknowledgement that a series  
18 of projects could have cumulative effects, yes.

19 Q. If there is a mercury problem related  
20 to impoundment how localized is the problem, I mean  
21 geographically? Is it possible to be a contaminant  
22 present at a significant distance from the dam site?

23 A. I think it is a very site-specific  
24 question, but to try and answer in a general sense I  
25 think you could have mercury increases in fish within a



1 reservoir to some extent downstream and depending on  
2 fish movements possibly upstream to some extent.

3 Q. Ms. Quinn, in your evidence-in-chief  
4 you have made some reference to the Statement of  
5 Political Understanding with First Nations, that being  
6 a statement executed by the Government of Ontario as  
7 well as various First Nations in Ontario. Do you  
8 recall that?

9 MS. QUINN: A. Yes.

10 Q. And perhaps I will refer you to your  
11 statement in the transcript, Volume 82, the one and  
12 only copy, I see. I should have lent you one. Page  
13 14644?

14 THE CHAIRMAN: 64...what, I'm sorry?

15 MR. ALLISON: 14644.

16 THE CHAIRMAN: Thank you.

17 MR. ALLISON: Q. Do you have it?

18 MS. QUINN: A. Yes, I do.

19 Q. At line 21 there is a statement that  
20 says:

21 "In recognition of a statement of  
22 political relationships signed by the  
23 Government of Ontario and the First  
24 Nations in August of this year, which is  
25 Exhibit 354, and the Corporate Aboriginal

1 Relations Guidelines adopted more than a  
2 year ago by Ontario Hydro, which is  
3 Exhibit 235, Ontario Hydro will work with  
4 First Nations as governments and  
5 acknowledge the unique legal historical  
6 and cultural status of all Aboriginal  
7 people."

8 True?

9 A. Yes.

10 Q. Now, let me make sure I understand  
11 what you are saying here. There is some reference to  
12 the fact that Hydro is prepared to work with First  
13 Nations as governments, and I am wondering if that part  
14 of your statement is disjunctive, separate and apart  
15 from the balance of the sentence, which says that you  
16 will acknowledge the unique legal, historical and  
17 cultural status of all Aboriginal people.

18 Specifically what I am asking you is,  
19 when you say "all Aboriginal people" I think I know  
20 what you mean by that because that includes Metis,  
21 off-reserve--

22 A. Yes, that's correct.

23 Q. --beyond the scope of what were  
24 called status Indians?

25 A. Yes, that's correct.

1 Q. But the first part of the statement  
2 when it refers to First Nations, I think I understand  
3 what you mean, and that's a smaller sub-group of  
4 Aboriginal people; is that right?

5 A. Yes, as we understand that that  
6 agreement pertains to.

7 Q. So that if I use your terminology -  
8 and I would ask you to correct me if I am wrong - what  
9 this statement says is that you will work with First  
10 Nations as governments, it does not say that you will  
11 work with other Aboriginal people as governments, and  
12 that you will acknowledge the unique status of all  
13 people? Have I got it right?

14 A. That's right. We are directed by  
15 government on this point really, and that's our  
16 understanding of the way things sit. We are not the  
17 ones negotiating the agreements with the Aboriginal  
18 communities. It is the provincial government, and so  
19 if the status of groups other than First Nations is  
20 changing, then we would observe that as well.

21 But at this point in time it's our  
22 understanding that that's the way the agreement with  
23 the First Nations suggests that our government behave,  
24 and we in turn.

25 Q. Am I right to say that working with

1 First Nations as governments means that they will be  
2 handled in a special or peculiar manner that is  
3 different from working with a group that's not a  
4 government?

5 A. Well, within our project-specific  
6 work our activities include governments - provincial,  
7 municipal, regional - and anyone else really as well as  
8 other affected parties.

9 Q. All right.

10 A. The nature of our consultation or  
11 co-planning activities would vary depending on the need  
12 for studies, the nature of the proposal that's being  
13 undertaken, and so on. So there may be differences,  
14 but I think in the Moose River Basin for the plan  
15 assessment co-planning was something that was offered  
16 to all people in the Basin, whether they were First  
17 Nations or not.

18 And so we -- it isn't as though there is  
19 a crisp distinction about the way we treat parties  
20 simply because they are governments or not governments.

21 Q. Well, there seemed to be a crisp  
22 distinction here. That's what I am trying to  
23 understand.

24 A. As I understand it, it would have  
25 been incorrect for us to have said that the Statement

1 of Political Relationships would have included all  
2 Aboriginal people as governments.

3 Q. So your understanding of the  
4 statement is as a result of these two sources, the  
5 Statement of Political Relationship and the Corporate  
6 Guideline, that there is a distinction between First  
7 Nations and other Aboriginals?

8 A. Well, our Corporate Guidelines don't  
9 make the distinction between First Nations and other  
10 Aboriginal people as governments, but it is the  
11 Statement of Political Relationships that does that.

12 Q. All right. And are you able to put  
13 some flesh on the bones in terms of telling me when we  
14 get down to specifics what's going to be the  
15 difference? If Hydro is going to treat one as a  
16 government and the other one recognized as special  
17 status, how does that translate to a difference? What  
18 is the difference?

19 A. Well, I think a group that's been  
20 empowered to be a government has some other  
21 authorities, and we know specifically that the  
22 Statement of Political Relationships is tied in with  
23 discussions about self-government. That may lead to  
24 some differences in terms of what authorities First  
25 Nations would have.



1 In studies that we have done in the  
2 recent past it hasn't really meant a very big  
3 difference in terms of how one conducts oneself in  
4 terms of doing studies or meeting with people, having  
5 discussions, but it may have more of a distinction in  
6 the future.

7 Q. It sounds to me like the relationship  
8 of First Nations in the future will be more toward a  
9 partnership. How do you respond to that?

10 A. Partnership is the word that I used  
11 in my direct evidence to discuss the type of  
12 relationship one would hope for in terms of impact  
13 management, and I think that was with local  
14 communities. We didn't make the distinction there.  
15 Whomever the affected parties are at that time, that's  
16 how we would like to work with them.

17 The co-planning of studies involves  
18 working more closely than simply through a consultation  
19 program. As I say, that's been offered to people other  
20 than First Nations as well.

21 Q. All right. I'm not attempting to tie  
22 you to your use of the word partnership, and I am not  
23 trying to confuse this part of your testimony with that  
24 which we discussed this morning, but my question simply  
25 is that it seems to me that if you are going to start

1 treating First Nations as governments, that's a new  
2 beginning, isn't it? That wasn't done before; am I  
3 right?

4 A. Before...?

5 Q. Before the Statement from the  
6 Government of Ontario and the Corporate Guidelines?

7 A. Oh, when the Corporate Guidelines  
8 came in we had an inkling that this was what was coming  
9 along, so I would say in the last couple of years we  
10 have been observing that.

11 Q. Prior to that couple of years. This  
12 is a new beginning?

13 A. That's right. Yes, it is.

14 Q. I take it that this new beginning in  
15 my observation of your testimony indicates that Hydro's  
16 approach with respect to First Nations is going to  
17 gravitate towards a sharing of decision-making, a  
18 sharing of financial responsibilities, some opportunity  
19 for a veto, as it were, essentially closer to a  
20 relationship of partnership in a very pure and  
21 technical sense than what may have existed five or ten  
22 or 50 or 100 years ago.

23 How do you respond to that? Do you agree  
24 with me or disagree?

25 A. Well, I have to provide a lot of

1       qualifiers to what you are saying. In general, we  
2       would like a relationship with the communities where a  
3       facility might be located to be characterized by that  
4       kind of relationship, and that could well include First  
5       Nations.

6                       We understand that the relationship with  
7       First Nations may be different in some ways which we  
8       are going to be learning more about, but I think I have  
9       only referred to the veto with regards to the Moose  
10      River Basin.

11                      So I wouldn't suggest that the veto  
12      notion extends just to First Nations or outside of the  
13      Moose River Basin. So I would have to qualify that  
14      point, and there are other aspects of your question  
15      that I can't quite remember but if you could remind me  
16      I would be happy to speak to them.

17                      Q. If I can put it this way, it seems to  
18      me that if Hydro were to do some development project  
19      that involved another province, a state in the  
20      northeastern corner of the United States of America,  
21      that you would have to deal with that other entity as a  
22      government, and that you would have to deal with it on  
23      a partnership basis in the sense that there is going to  
24      be some sharing of responsibilities, there would be  
25      some sharing of decision-making, and that other state

1 or power is going to have some veto in terms of their  
2 involvement; right?

3 I am suggesting to you that if you are  
4 about to embark upon treating First Nations that way  
5 then the same conclusions follow, that dealing with a  
6 First Nation will be similar to dealing with Manitoba  
7 or Minnesota or some other foreign power.

8 How do you respond to that? Do you agree  
9 or disagree?

10 A. I don't really disagree, but it  
11 excludes other groups with whom we would also want to  
12 have a partnership relationship.

13 Q. I recognize that.

14 A. Okay.

15 Q. I am focusing only on the first part  
16 of your statement.

17 Now, I take it then that may be an area  
18 of distinction between First Nations and other  
19 Aborigines; right?

20 A. Well, it may be by the authority that  
21 First Nations could have.

22 [3:05 p.m.]

23 Q. I got the sense in listening to your  
24 evidence in chief and also in cross-examination by four  
25 or five lawyers on these issues, that Hydro has been



1 limited in what it wanted to do, I think specifically  
2 at Moose River, because of response or lack of response  
3 from the Aboriginal communities; is that a fair  
4 characterization of what you were saying?

5 A. Yes, that's true for projects in the  
6 basin beyond Mattagami and it is true for the plan  
7 assessment to do with the basin.

8 Q. And is it fair to say that the goals  
9 or aspirations of Hydro have been somewhat frustrated  
10 by that lack of response?

11 A. It's probably fair. As I have said,  
12 earlier the decisions have been made at a senior level  
13 and I don't know what senior people would agree to as  
14 characteristic.

15 Q. Far be it for me to impinge on your  
16 livelihood. (Laughter)

17 A. That's right. Thank you.

18 Q. It seems to me, though, that if that  
19 is a problem or has been a problem or will be a  
20 problem, that the onus remains with Hydro, that when  
21 there is a lack of response, that that does not  
22 alleviate the proponent from finding some other course  
23 that gets the response.

24 How do you respond to that?

25 A. Well, we also have to observe that



1 the response from the First Nations in particular was  
2 that they would like to deal with the provincial  
3 government first, so we are respecting that. And there  
4 in fact has been a response, Ontario Hydro has agreed  
5 to that response and it's a provincial negotiator.

6 Q. All I am asking you is, do you agree  
7 with me that when that happens the onus remains with  
8 Hydro?

9 A. I guess I am not entirely agreeing  
10 with you because we have limitations on what we can do,  
11 and what is required may involve more than the  
12 authority of Ontario Hydro.

13 Q. Would you agree with me that in some  
14 cases a lack of response may indicate that the method  
15 used to stimulate response simply hasn't worked; is  
16 that one possibility?

17 A. It's a possibility.

18 Q. I would like to turn then, if I can,  
19 Ms. Quinn, to some evidence that you have given with  
20 respect to the Ontario Native Economic Development  
21 Policy. Do you recall that policy?

22 I believe it's been introduced as Exhibit  
23 370. I shall refer to you the pages of the transcript  
24 at which you made reference. Volume 83, page 14764.

25 A. Yes.

1 Q. You will see there a very lengthy  
2 question given you by Mr. Moran from the Government of  
3 Ontario. In his question he makes reference to Exhibit  
4 370, particularly four principles, four among others.  
5 The first is at page 14764, line 15:

6 Ontario recognizes that initiatives in  
7 support of economic development need to  
8 be compatible with native lifestyles and  
9 aspirations and recognizes there are  
10 differences between regions, on-reserve  
11 and off-reserve communities, stages of  
12 development, potential sectors and  
13 opportunities.

14 My understanding of that is that a part  
15 of the principle is that on-reserve communities are not  
16 equal to off-reserve communities, that there is a  
17 distinction there. Is that the way you read it?

18 A. They seem to have made a distinction  
19 for some reason, yes.

20 Q. My understanding further is that Mr.  
21 Moran asked you specifically what steps Hydro has taken  
22 to incorporate these principles, this and others that  
23 we will get to, into overall planning. At the next  
24 page, 14766, there is an answer you have given, an  
25 answer no shorter than the long question given you, and

1 I think I boiled out of that three things that you have  
2 said and I ask you to sort of roll back in your mind as  
3 to whether or not I have missed anything.

4 It seems to me you answered him by saying  
5 first of all that you would refer him to your  
6 Aboriginal relations guidelines; secondly, that you  
7 would look at the plan assessment you were hoping to  
8 work on for Moose River, and thirdly you pointed out  
9 that Hydro is trying to work with local peoples'  
10 interests in mind..

11 Have I fairly summarized your response?

12 A. I think so.

13 Q. With respect to the first of those  
14 three answers that you gave him, you went on  
15 specifically at 14766, line 15:

16 I believe you would find some  
17 concurrence between ideas in our  
18 guidelines and some of the principles you  
19 have referred to, so I believe from a  
20 corporate perspective we have got  
21 something of a track record under our  
22 belt.

23 Do you recall that?

24 A. Yes, it's here on the page.

25 Q. My observation is that that's a

1 pretty short track record. How do you respond to that?

2 A. Well, this is a general statement and  
3 if I were to look at the specific, and I don't have it  
4 \*front of me, principles and our guidelines, there may  
5 be some matters that have some history.

6 As I understand it, the provincial policy  
7 doesn't relate only to applications under the  
8 Environmental Assessment Act. There might other areas  
9 of work that Ontario Hydro is involved in where it has  
10 some track record.

11 Q. My point though, Ms. Quinn, is that  
12 if I look at the length of time that we have had Hydro  
13 and the length of time that we have had Aboriginal  
14 people on the one hand, and the length of time we have  
15 had a vice-president at Hydro focused on these issues,  
16 and length of time we have had a steering committee,  
17 and length of time we have government policy and length  
18 of time we have had a corporate guideline, it's a  
19 pretty short track.

20 Do you see my point? Does that make  
21 sense?

22 A. Yes, it makes sense.

23 Q. The second part of your answer dealt  
24 with what you hoped to do at Moose River, and I take  
25 it, as we have already discussed, that is something

1 that hasn't yet matured; is that right?

2 A. Yes, that's right.

3 Q. The third part of your answer dealt  
4 with the focus on dealing with local peoples' interest  
5 which I take is a part of other areas of your evidence  
6 in chief that have we have talked about this morning,  
7 different steps that you would take in terms of impact  
8 management?

9 A. Right.

10 Q. The next principle that Mr. Moran  
11 referred you to was at line 23 on 14764, and he read it  
12 as this:

13 Ontario recognizes that greater native  
14 economic self-reliance is achievable  
15 through activities in all the sectors of  
16 the economy including resource  
17 development.

18 My understanding is that that encompasses  
19 Ontario Hydro. Does that seem reasonable to you?

20 A. Yes, that's right.

21 Q. And I will just jump down to  
22 principle No. 8, he read it as this, line 13, on page  
23 14765:

24 Ontario acknowledges the right and  
25 responsibility of native communities to



1 take the lead role in planning and  
2 shaping their own future with the  
3 involvement of public and private  
4 sectors.

5 Now, I would like to canvass with you  
6 your understanding or how Hydro has responded to this  
7 principle, specifically this concept of lead role. I  
8 would like to see if I can find out some understanding  
9 of what you have in mind or what the corporation has in  
10 mind in that respect.

11 MS. HARVIE: I'm sorry, Mr. Chairman,  
12 this very question seems to have been asked on page  
13 14767 at line 13 by Mr. Moran.

14 MR. ALLISON: Indeed, that was my next  
15 observation for Ms. Quinn, was to read her that  
16 question and her answer, because respectfully, and I do  
17 mean respectfully, I don't think you answered the  
18 question, and so I wanted to explain --

19 THE CHAIRMAN: Perhaps you should refer  
20 her to the question, rather than asking the question  
21 again.

22 MR. ALLISON: Indeed.

23 Q. Page 14767, the question Mr. Moran  
24 gave you was this -- just a minute, I will get you the  
25 line. Line 13, as Ms. Harvie said, I'm sorry.

1 Can you indicate the strategies that  
2 would support in particular the notion  
3 set out in the principle 8 relating the  
4 lead role taken by native communities  
5 with respect to their own future?

6 And then your answer follows. And my  
7 synopsis of your answer is that you said, we do local  
8 purchasing, we assist local businesses, we are aware  
9 that there is an indirect employment effect, through  
10 consultation we try to learn about the local community  
11 as to whether they want to take the lead.

12 Is that the gist of your answer?

13 MS. QUINN: A. Yes, that's what is there  
14 but I think there is another point to be made, and that  
15 is that we are in a bit of reactivate situation. The  
16 community, the native community as it's referred to in  
17 principle No. 8 is asked here, and acknowledged, as  
18 having the right of responsibility to take the lead.  
19 We can provide some opportunity but we are not in a  
20 position to go beyond a certain point.

21 Q. I recognize that.

22 A. So what I have done is I have tried  
23 to give you some examples of where there might be an  
24 interface and one might be in the area of local  
25 purchasing. If an Aboriginal or native community would

1 like to be part of the process of responding to a  
2 tender, we would go to some lengths to organize our  
3 tenders in ways that they would be accessible and  
4 manageable. So that's just one example I will speak  
5 to.

6 Q. I understand the example. But if I  
7 can I will explain why I don't see that you have  
8 answered it.

9 It seems to me that there is a  
10 difference, I will put it to you in this fashion. It  
11 seems to me there is a difference on the one hand  
12 between Hydro approaching a sector of society,  
13 analyzing them, and attempting to find out how their  
14 position could affect what Hydro intends to do on the  
15 one hand, as opposed to a situation in which Hydro  
16 approaches that sector of society, that group of  
17 people, asks them what they want to do with a  
18 particular resource, and then tries to figure out how  
19 that impacts upon Hydro's goals.

20 Do you see what I am saying?

21 A. Yes, and I suggest that there is  
22 another option as well, and that is that the native  
23 community approaches Ontario Hydro and says, in the  
24 area of business in which you operate these are the  
25 kinds of things that interest us.

1 Q. All right. I suppose the distinction  
2 between what I have described and what you have  
3 described is a question of initiative.

4 A. Maybe.

5 Q. Could be?

6 A. It could be.

7 Q. It seems to me that if the native  
8 people are to take the lead role, that's the gist of  
9 the policy, the principle that's set out here, then  
10 that means that they should determine when they wish to  
11 proceed with things, if they wish to proceed with  
12 things.

13 Do you see what I am saying? That there  
14 a distinction between Hydro --

15 THE CHAIRMAN: I think if you ask her  
16 questions and not express your own views on things.

17 MR. ALLISON: My question, I suppose, Mr.  
18 Chairman, is for response to that view.

19 Q. Do you understand my view, first of  
20 all? If I can start there.

21 MS. QUINN: A. Yes, I do.

22 Q. Can you respond to that then, give me  
23 your view?

24 A. I think what you are saying is  
25 legitimate. I can think of an example, and that has to



1 do with non-utility generation and I think there has  
2 been some interaction and there has been some interest  
3 expressed on the part of Aboriginal groups.

4 But I also have to remind you of the  
5 corporation's mandate which is also something that we  
6 are asked to observe and that authority comes to us  
7 from the province, the same government that provides  
8 this policy that Mr. Moran and has referred to. So I  
9 would suggest that Ontario Hydro is responsible for  
10 taking some initiatives and at the same time so does  
11 this policy suggest that another group in particular in  
12 this case native communities would take some  
13 initiative.

14 Q. As your evidence went on in  
15 cross-examination with respect to Mr. Moran, from the  
16 pages that I have referred you to onward, I got the  
17 feeling, I think you said it pretty articulately, that  
18 Hydro would welcome opportunity for a community impact  
19 agreement at a site-specific stage?

20 A. Yes, that's the case.

21 Q. So that's a direction in which you  
22 haven't gone, haven't been able to go so far, that  
23 Hydro would like to go; am I right?

24 THE CHAIRMAN: I think she just said yes  
25 to that, so let's go on to something else.



1 MR. ALLISON: Q. If my submission to  
2 this Board was that that ought to be a condition to any  
3 approvals, would Hydro be opposed to that condition?  
4

5 THE CHAIRMAN: Well again, this is a  
6 site-specific matter. It has got nothing much to do  
7 with the planning considerations that we have to  
8 consider at this hearing.

9 MR. ALLISON: I suppose at this hearing  
10 if approvals are given, Mr. Chairman, and the  
11 submission of my client was that any approvals ought to  
12 be on the condition of the community agreement, I  
13 wanted to know whether that's an issue at this hearing.

14 THE CHAIRMAN: Well, I suppose it  
15 conceivably could be a condition.

16 MR. ALLISON: Q. Ms. Quinn, is that an  
17 issue?

18 MS. QUINN: A. I concur with our  
19 Chairman, if I may, with due respect.

20 Q. It's only safe. (Laughter)

21 A. I guess I am asking, is Hydro opposed  
22 to that condition?

23 A. It would be very site-specific. I  
24 think one would have to --

25 Q. No, no. I'm sorry to cut you off,  
but I am suggesting that if approvals are granted by

1 this Board at this hearing --

2 A. I see, I'm sorry.

3 Q. And my client submits that any  
4 approvals granted should have as a condition to that  
5 approval that there must be a community impact  
6 agreement --

7 MS. PATTERSON: Do you mean a community  
8 impact agreement for each individual site later  
9 approved?

10 MR. ALLISON: Yes.

11 Q. You are seeking approval for  
12 development of attainable potential; correct?

13 MS. QUINN: A. Yes, that's right.

14 Q. And if my position is that if you get  
15 that, it should be on the basis that there must be a  
16 community impact agreement at specific sites, are you  
17 opposed to that condition I am asserting or are you  
18 not?

19 A. In principle I am not. That's what  
20 we will strive for.

21 MR. FLOOK: A. If I may just comment  
22 though. Such an imposition would be fraught with  
23 problems in perhaps legal interpretations of control or  
24 influence and trying to do it in a very general area as  
25 opposed to very site-specific, and you could create

1 more problems than you solve in doing such a thing.

2 MS. QUINN: A. I should also point out  
3 that community impacts agreements can be signed with a  
4 variety of affected parties. And you are making a very  
5 general statement and I have given you a very general  
6 answer.

7 Q. That is fine. We will deal with that  
8 another day.

9 A. Hopefully at a site-specific hearing.  
10 (Laughter)

11 Q. Then too.

12 I would like to outline a position, a  
13 philosophy, and I am going to ask, Ms. Quinn, I am  
14 going to ask you whether or not you understand the  
15 concern that this philosophy leads us to. So I am  
16 going to try to explain very briefly what the  
17 philosophy is, I am going to ask you if you understand  
18 the concern.

19 In the order to explain is as briefly as  
20 we can, I am going to make reference to some material.  
21 I have provided copies to the clerk.

22 Mr. Chairman, if they can be introduced  
23 as the next exhibit.

24 THE REGISTRAR: No. 412.

1       ---EXHIBIT NO. 412:   Excerpt, "As Long as the Rivers  
2                               Run: Hydroelectric and Native  
3                               Communities in Western Canada", by James  
4                               B. Waldram.

5                           MR. ALLISON:  Q.  The materials so  
6                           provided are an excerpt from the text entitled:  "As  
7                           Long as the Rivers Run:  Hydroelectric Development in  
8                           Native Communities in Western Canada", by James  
9                           Waldram, University of Manitoba Press, I believe it is  
10                           1988.

11                           I am going to plagiarize Mr. Waldram in  
12                           terms of describing the philosophy, as it were.

13                           MS. HARVIE:  May I suggest, Mr. Allison,  
14                           that you provide the witnesses with copies if you have  
15                           given them to the Board?

16                           THE CHAIRMAN:  You are going to be  
17                           reading from this document, I take it.

18                           MR. ALLISON:  I am going to read from it  
19                           a statement and suggest it is a philosophy of my client  
20                           and try to determine or test whether or not Ms. Quinn  
21                           and the rest of the panel understands the issue.  I  
22                           don't think we will agree to resolve the issue, but I  
23                           want to make sure that we understand what the issue is.

24                           Q.  I make reference to page 4 wherein  
25                           Waldram sets out the argument that I will adopt.

[3:20 p.m.]

1 "It is my argument that the  
2 philosophies and procedures operating  
3 during the nineteenth-century  
4 treaty-making and scrip commissions are  
5 once again evident in the efforts of the  
6 hydroelectric developers in dealing with  
7 existing Native claims, legal or moral,  
8 to these water resources. The attitude  
9 of the Treaty makers has remained intact  
10 through the years; and the processes  
11 whereby governments and public and  
12 private electrical power utilities have  
13 secured the right to construct hydro  
14 facilities, and thereby alter and  
15 frequently destroy the livelihood of many  
16 Indian and Metis peoples represents a  
17 continuity with the past. The processes  
18 are similar: a resource is identified as  
19 valuable to the general society, and the  
20 Natives who are using that resource must  
21 be convinced that they should surrender  
22 it for the "common good." Negotiations  
23 frequently, though not always, ensue and  
24 agreements are occasionally signed.  
25 Native communities may even be relocated



1 to make room for the development. Once  
2 the resource has been secured and the  
3 Native people have been appeased, they  
4 are largely ignored. Poverty and  
5 hardship frequently result, as the people  
6 discover they can no longer make a living  
7 from the resources, and particularly the  
8 waterways, of their traditional  
9 territories."

10 Now, assume with me for the moment that  
11 my clients adopt this philosophy, this view of  
12 historical development in this country with respect to  
13 their peoples.

14 We have been through the process that  
15 Hydro has used in this DSP and the steps that you are  
16 proposing to take.

17 Ms. Quinn, do you see the concern?

18 MS. QUINN: A. Yes, I see it, and I  
19 understand the reference here to Native people feeling  
20 that they have been appeased or later ignored.

21 I should have thought our reference to  
22 impact agreements which are legal and binding would  
23 have at least helped to see that we are trying to do  
24 things differently.

25 Q. All right. I acknowledge that. Do

1 you see the rest of the philosophy, the concern that  
2 there is underway or could be underway an effort to  
3 persuade the Native people that that which is important  
4 to them must be sacrificed for the common good? Do you  
5 see the concern that I have been trying to get at?

6 A. Yes, I understand it. I also think  
7 that's why one of our exclusion criteria speaks  
8 specifically to an area related to the concerns of  
9 Aboriginal people.

10 We are trying to proceed in a way that  
11 respects these matters and history, and we feel like we  
12 are on new ground, we are trying to learn as we go, and  
13 I think that in many ways we needed guidance from  
14 others. We need guidance from government. We need  
15 guidance from Aboriginal people directly.

16 So while we are not able to do studies we  
17 try to keep other doors of communication open with  
18 Aboriginal people, and we try to learn, as I say, as we  
19 go, and if in the end, as members of this Panel have  
20 acknowledged, specific projects are not acceptable or  
21 have, as you would say, an intolerable impact, so be  
22 it. The projects may not proceed.

23 They are being brought before an  
24 Environmental Assessment Board and we would hope that  
25 everybody observes that as due process.

1 MR. ALLISON: Those are my questions, Mr.  
2 Chairman, of this Panel.

3 THE CHAIRMAN: Thank you, Mr. Allison.  
4 Mr. Mark, are you next?

5 MR. MARK: Yes, Mr. Chairman.

6 THE CHAIRMAN: Perhaps we will take the  
7 afternoon break, and then we will start in 15 minutes?

8 MR. MARK: Very well.

9 THE REGISTRAR: The hearing will take a  
10 15-minute recess.

11 ---Recess at 3:30 p.m.

12 ---On resuming at 3:48 p.m.

13 THE REGISTRAR: Please come to order.  
14 This hearing is again in session. Be seated, please.

15 THE CHAIRMAN: Ms. Harvie?

16 MS. HARVIE: I just had a very brief  
17 comment, Mr. Chairman, arising out of Mr. Allison's  
18 cross-examination with regard to terms and conditions,  
19 and while I thought it over at the break I tried to  
20 contact him in the hallway and he seems to have  
21 departed, but I did feel that we should put our remarks  
22 on the record.

23 Given the interest, Mr. Allison's  
24 interest at any rate, in asking witnesses about terms  
25 and conditions of approval I just wanted it noted that

1 our understanding is that we will certainly be  
2 discussing terms and conditions of approval at the  
3 appropriate time, presumably after all our  
4 evidence-in-chief has been presented and quite possibly  
5 later than that, and a process will be put in place for  
6 the identification and resolution of appropriate terms  
7 and conditions.

8 My experience has been on the Timber  
9 Management hearing, and there is obviously a lengthy  
10 and programs convoluted process for the resolution of  
11 terms and conditions there, but it's certainly been the  
12 subject of a great deal of discussion and debate  
13 amongst the parties and their counsel.

14 I would imagine if parties were  
15 successful in resolving terms and conditions it would  
16 be put to you for your consideration, and to the extent  
17 that we were unsuccessful legal argument would be made.

18 Whatever witnesses may say in cross-  
19 examination about terms and conditions, I want it  
20 understood that this in no way necessarily binds the  
21 Corporation with respect to any position that we may be  
22 taking in those discussions.

23 Thank you.

24 THE CHAIRMAN: Thank you, Ms. Harvie.

25 Mr. Mark?



1 MR. MARK: Thank you, Mr. Chairman. Good  
2 day.

3 Panel, my name is Mark. I represent the  
4 Municipal Electric Association for those of you whom I  
5 haven't met already. With me is Dr. Doug Logan.

6 Mr. Chairman, just before we get underway  
7 I have a very small package of materials consisting of  
8 a mixed package of interrogatory responses and I  
9 believe some other documents.

10 For convenience, if -- and I  
11 anticipate -- although I am not certain, I anticipate  
12 referring to most of them, and for convenience perhaps  
13 we could mark them as an exhibit.

14 THE CHAIRMAN: Just so everyone has  
15 cross-references we will give them numbers.

16 MR. MARK: Very well.

17 THE REGISTRAR: 413. Yes, that's right.

18 ---EXHIBIT NO. 413: Mr. Mark's Interrogatory  
19 Responses.

20 CROSS-EXAMINATION BY MR. MARK:

21 Q. Mr. Snelson, perhaps I could start  
22 with you on the subject of the demand/supply planning  
23 process itself and in particular on the role hydraulic  
24 plays.

25 I take it from your direct evidence and



1 the written evidence there is no dispute, is there, Mr.  
2 Snelson, that Ontario Hydro views hydraulic as the  
3 preferred supply option?

4 MR. SNELSON: A. It views hydraulic as a  
5 preferred supply option.

6 Q. Well, as I understood the prefiles  
7 and certainly some of the evidence given previously  
8 today, I think to Mr. Allison, amongst technologies you  
9 have available for new supply capacity it is to be  
10 preferred; it is your priority development, is it not?

11 A. It is a preferred option, but there  
12 are other things such as cogeneration which are  
13 probably equally preferred.

14 Q. As between hydraulic and your major  
15 supply options certainly fossil and nuclear hydraulic  
16 is preferred?

17 A. Yes.

18 Q. And you have outlined in your direct  
19 evidence, and we don't have to go through it in detail,  
20 but it is preferable because it's renewable? That's  
21 one of the reasons?

22 A. That's one of the factors, yes.

23 Q. And indigenous?

24 A. Yes.

25 Q. Relative to those, certainly at least

1 fossil, it is considered environmentally preferable  
2 from an emissions point of view?

3 A. From an air emissions point of view,  
4 yes, subject to local considerations.

5 Q. And with respect to its operational  
6 characteristics, as I understand your evidence its  
7 suitability for peaking purposes makes it particularly  
8 attractive?

9 A. It is suitable for peaking purposes,  
10 and that is a useful addition to a system which is  
11 largely thermal generation.

12 Q. Am I correct, Mr. Snelson, that when  
13 you presented the Demand/Supply Plan report you  
14 presented a plan in which you had already addressed and  
15 satisfied yourselves that the proposed resource options  
16 reflected the benefits we have spoken about and  
17 appropriately balanced them against what you had  
18 identified as the environmental impacts of the  
19 hydraulic option?

20 A. That was certainly our view.

21 Q. And would I be correct in assuming  
22 that based on all the evidence you had available you  
23 considered that you could satisfactorily mitigate the  
24 environmental impacts sufficient to justify proceeding  
25 with the 18 sites that you proposed?

1                   A. We believed that was probably the  
2 case, though we had a greater degree of assurance on  
3 some of those sites than some others.

4                   Q. But certainly you passed your own  
5 level of analysis and you did this balancing and  
6 concluded that it was appropriate to put these forward,  
7 having regard to the benefits on the one hand and the  
8 impacts environmentally on the other?

9                   A. As I have said, that was our  
10 judgment, but that was based to some degree on  
11 different levels of information for different sites.  
12 So some sites where a lot of work had been done we had  
13 a high degree of confidence. In other sites then it  
14 was a somewhat lesser degree of confidence.

15                  Q. As I said in my initial question,  
16 based on the evidence you then had available?

17                  A. Yes.

18                  Q. And no doubt, Mr. Snelson, when you  
19 brought your plans forward you well knew that there  
20 would be opposition to many aspects of your plan, each  
21 of hydraulic, nuclear and fossil?

22                  A. Yes.

23                  Q. It came as no surprise or secret to  
24 you that there were going to be numerous interest  
25 groups who had some rather grave concerns about each of

1 those technologies and would be expressing those views  
2 here?

3 A. That is correct.

4 Q. And in the end, I gather, Hydro was  
5 quite content to leave it to this Board to review the  
6 technical, professional and value judgments you made  
7 and come to some independent determination as to  
8 whether the plan you have put forward is an appropriate  
9 balancing of the benefits and the impacts that we have  
10 just talked about before?

11 A. Yes, I understand that to be the  
12 function of this Board.

13 Q. And we know that in September of this  
14 year we had approximately 1,500 megawatts of hydraulic  
15 capacity removed from your planning numbers; correct?

16 A. Are you referring to the  
17 co-planning--

18 Q. Yes.

19 A. --requirements in the Moose River  
20 Basin?

21 Q. Yes.

22 A. Yes.

23 Q. We have had quite a bit of discussion  
24 about it. I don't want to go over much of it in  
25 detail, but let me ask you a couple of other questions



1 about it. Were there any consultations with any third  
2 parties by Ontario Hydro in coming to that decision?

3 MS. QUINN: A. There is a certain part  
4 of the decision that none of us have been privy to. It  
5 was taken at a very senior level and we don't know  
6 whether or not there were third parties involved, as  
7 far as I know.

8 Q. You say part of the decision, Ms.  
9 Quinn. It's a relatively simple one not to go ahead  
10 with those sites without co-planning agreements. Now,  
11 when you say a part the decision, do you mean part of  
12 that or are you talking about part of the process?

13 A. I am really saying that the decision  
14 was taken at a very senior level in the corporation.

15 Q. To the best of your knowledge, Ms.  
16 Quinn, was there any consultation with let's say your  
17 customer groups about the wisdom of the decision to  
18 remove those sites for planning purposes?

19 A. Not that I know of. I may not know,  
20 though.

21 Q. Was there any discussion with  
22 interest groups who have expressed concern about the  
23 environmental impacts of the other resources which may  
24 be called upon to replace this capacity, such as  
25 nuclear or fossil? Any discussion with those interest



1 groups about the wisdom of the decision that was taken?

2 A. Not that I am aware of.

3 Q. Am I correct, Ms. Quinn, that  
4 whatever else may have happened or motivated that  
5 decision these sites were not removed for planning  
6 purposes because they ran afoul of any of the  
7 exclusionary criteria which you identified in your  
8 evidence-in-chief?

9 A. Sorry, could you repeat that?

10 Q. These sites, the Moose River Basin  
11 sites, have not been removed because they ran afoul of  
12 any of the exclusionary criteria which you have talked  
13 about so much in your evidence in chief and in response  
14 to cross-examination?

15 A. The other exclusionary criteria?

16 Q. Yes.

17 A. That's right.

18 Q. Well, you say other. Were these  
19 removed pursuant to some exclusionary criteria that the  
20 corporation has established?

21 THE CHAIRMAN: I think their evidence  
22 indicates it is an exclusionary criteria of its own,  
23 the elimination of Moose River Basin.

24 MS. QUINN: Yes, that's correct.

25 THE CHAIRMAN: That's one of the numbered

1 exclusionary criteria.

2 MS. QUINN: I believe it's our seventh  
3 exclusionary criteria. Thank you.

4 MR. MARK: Q. And what criteria were  
5 applied in the determination to remove those from the  
6 plan?

7 MS. QUINN: A. I'm sorry, I don't have  
8 it handy, but I believe that in Mr. Campbell's  
9 announcement to this Board by and large the reasons  
10 were given, and I could certainly find that reference  
11 for you but I just don't have it handy.

12 The date was September 24th.

13 MR. SNELSON: A. It's Volume 63, and I  
14 believe it starts on page 11183.

15 Q. Well, let me read you the passage  
16 from there, Ms. Quinn. Then perhaps you can help me,  
17 and what I think is the relevant passage, where it  
18 says:

19 The changing relationship between the  
20 Ontario government and the First Nations  
21 of Ontario is evidenced by the Statement  
22 of Political Relationships signed in  
23 August of this year and the changing  
24 relationship between Hydro and the  
25 Aboriginal groups have been important

1 factors in this evolution. The Board  
2 will also be aware of recent  
3 organizational changes at Hydro which  
4 place a higher level of priority and  
5 commitment on Aboriginal and Northern  
6 Affairs. All of this together with the  
7 need for the active involvement of  
8 Aboriginal groups affected has led to a  
9 re-examination of Hydro's approach to  
10 planning in relation to the Moose River  
11 Basin. As a result, Hydro is officially  
12 suspending planning for the Moose River  
13 Basin hydroelectric potential beyond the  
14 redevelopment and extensions of the  
15 Mattagami complex until a co-planning  
16 process for the other projects has been  
17 developed and agreed to by the affected  
18 Aboriginal groups.

19 Now, Ms. Quinn, that tells us what the  
20 background was and what happened. Can you assist me as  
21 to what criteria were applied by the corporation in  
22 determining that suspension until there was a  
23 co-planning agreement was appropriate?

24 MS. QUINN: A. You mean, what are the  
25 criteria behind the criterion?

1 Q. Well...

2 A. I'm sorry, I am perhaps being  
3 disrespectful. (Laughter)

4 Q. We have heard that -- as I took Mr.  
5 Campbell's comments, Ontario Hydro had a greater  
6 commitment to consideration to the concerns and  
7 interests of the Aboriginal groups?

8 A. Yes, that's correct.

9 Q. What we see in the result is that the  
10 planning has been suspended until there is a  
11 co-planning agreement?

12 A. That's correct.

13 Q. Somewhere along the way somebody  
14 presumably came to some determination that the concern  
15 with the Aboriginal interests justified removing of  
16 these sites from the plan, and I am interested in that  
17 process and what factors were weighed and considered in  
18 determining that the withdrawal of those sites was an  
19 appropriate response to the concern.

20 MR. SNELSON: A. I am not sure we can  
21 add very much, Mr. Mark, to the reasons that have been  
22 given. The reasons are there, and I don't think it is  
23 much more complicated than was explained by Mr.  
24 Campbell.

25 Q. As far as you are aware, Mr. Snelson,

1       there was no re-examination or reassessment, for  
2       example, of the environmental impacts of these sites  
3       which changed your view as to the relative merits, the  
4       relative planning merits of the benefits versus the  
5       impacts?

6                     A. Not to my knowledge.

7                     Q. Is it fair to say, Mr. Snelson, that  
8       it was in the end essentially a political decision and  
9       not one based on any of the other criteria and  
10      evaluative techniques that you have identified for your  
11      Hydraulic Plan generally?

12                    A. It was a management decision.

13                    Q. Yes, I understand it was a management  
14      decision, Mr. Snelson. I think you have been quite  
15      careful to point that out. (Laughter)

16                    A. But I couldn't particularly associate  
17      or not associate the word political with it.

18                    Q. You are not aware of any factor which  
19      influenced this decision other than the corporation's  
20      commitment to recognition of the existence of the  
21      political entity beginning to be recognized; that is,  
22      the First Nations?

23      [4:05 p.m.]

24                    A. There is the information that was  
25      available on the sites that have been available for



1       sometime, and the only new factor I know of is the one  
2       that you mentioned.

3               Q. Ms. Quinn, do I understand your  
4       earlier testimony to be to the effect that the new  
5       perspective of Ontario Hydro with respect to these  
6       sites which have now been taken out in fact predated  
7       the statement of political relationships which was  
8       executed some months ago by the government and the  
9       First Nations?

10              MS. QUINN: A. The statement of  
11       political relationships I believe was adopted by the  
12       provincial government and the First Nations in August  
13       and our announcement to this Board was in September, on  
14       the 24th.

15              Q. I had understood from your evidence,  
16       it may have been in response to some questions from Mr.  
17       Allison, I forget, I thought you made the point that  
18       Ontario Hydro had taken its initiative or was at least  
19       was a long way down that road before the government  
20       entered into the statement of political relationships.

21              A. Our Corporate Aboriginal relations  
22       guidelines were adopted about a year before the  
23       government signed this particular agreement and that  
24       may be the reference.

25              Q. All right, perhaps it is.

1                   Let me ask you this then, Ms. Quinn, do  
2     you know whether the Ontario government was consulted  
3     or canvassed with respect to the decision taken by  
4     management to excluded these sites?

5                   A. I don't really know. I would not be  
6     surprised if that's the case, but I can't say that it  
7     is the case. I don't really know.

8                   Q. Can anybody on this panel be of any  
9     assistance?

10                  MR. SNELSON: A. Can you repeat the  
11     question?

12                  Q. Yes. I would like to know whether  
13     the Ontario government was consulted or canvassed with  
14     respect to the decision which was ultimately taken to  
15     suspend planning on the Moose River Basin sites?

16                  A. I don't know the answer to that  
17     question.

18                  Q. Would it be possible to obtain that  
19     information?

20                  MS. HARVIE: Well, Mr. Chairman, I don't  
21     know why it's particularly relevant. The submissions  
22     of Mr. Campbell make it plain the reasons why we  
23     suspended planning. There are four reasons and they  
24     are set out quite clearly in the transcript.

25                  ---Whether we canvassed government or not,

1 what difference does it make. These are the reasons  
2 that management has relied upon in making their  
3 decision.

4 MR. MARK: If I may, Mr. Chairman. With  
5 respect, I think it is apparent over the past few  
6 months anyway that there are a number of critical  
7 decisions being made regarding this utility, some of  
8 which directly involve the very issues which at one  
9 point you were asked to consider.

10 One of the issues which ultimately in our  
11 submission is going to have to be addressed is where  
12 the policy direction firstly does come from and,  
13 secondly, where it ought to come from and what are the  
14 appropriate boundaries between government on one hand  
15 and the electric utility on the other hand. And in  
16 that respect, Mr. Chairman, just with some of the other  
17 decisions we have seen such as demand management and  
18 non-utility generation, in our view the relationship  
19 and the direction from which initiatives are coming is  
20 in our view significant.

21 MS. HARVIE: The distinction I would draw  
22 with those initiatives, Mr. Chairman, is that it was  
23 quite clearly Hydro's evidence that there was  
24 government involvement in those decisions it has not  
25 been our evidence that there was. And I think that the

1 record stands for itself the reasons that were relied  
2 upon by management, and I think where there is  
3 government involvement it's been clearly placed on the  
4 record.

5 MR. MARK: If I can take it from that,  
6 Mr. Chairman, that this was not taken with government  
7 involvement, then we can leave the matter and proceed.

8 MS. HARVIE: No, you cannot.

9 THE CHAIRMAN: I think it is well-known  
10 that the relationship between the proponent in this  
11 case and the Government of Ontario is a matter of  
12 interest to a great number of people, including your  
13 client, who have been actively involved in the debate  
14 about the amendments to the Power Corporation Act, and  
15 this is all tied into that and I recognize that.

16 I am not quite sure whether that  
17 particular issue, important as it is, should be  
18 imported into this hearing.

19 We take what the proponent says its  
20 planning is, as they state it to us and as they amend  
21 it from time to time, and we assess that. That's our  
22 job. I don't think our job goes to that particular  
23 issue.

24 I would suggest that if you need the  
25 answer to the question that you have asked, that the



1 appropriate party to answer that question of whether or  
2 not consultation did occur would be the Government of  
3 Ontario and they could answer it or not answer it as  
4 they see fit.

5 MR. MARK: Very well. I will move on,  
6 Mr. Chairman.

7 Q. Ms. Quinn, you have had some  
8 discussion with previous counsel about the fact that it  
9 was only some of your sites with respect to which  
10 planning was suspended. Would it be fair to say,  
11 though, that Ontario Hydro's commitment to respecting  
12 the Aboriginal concerns and interests is likely to have  
13 a more pervasive effect than just the decision we have  
14 seen now of removal of the Moose River Basin sites?  
15 It's going to affect the way you conduct your  
16 affairs and your relationships with the Aboriginal  
17 groups; is it not?

18 MS. QUINN: A. Well, I think the growing  
19 recognition of Aboriginal groups and treaty rights and  
20 Aboriginal rights will affect us in some way and we  
21 will be directed by governments both federal and  
22 provincial in this regard.

23 At this point in time the only other  
24 project that we are actively involved in is the Patten  
25 Post in the sense of we have submitted environmental



1 assessments and really our case is by and large  
2 submitted on those other environmental assessment  
3 plants at the project level, and in that particular  
4 case we are acting in response to an order-in-council.

5 Q. What about the other redevelopment  
6 sites you have, you still have a lot of work to do in  
7 working with the Aboriginal groups, do you not?

8 A. On redevelopments associated with the  
9 SHARP program, do you mean?

10 Q. Well, let's take on the Mattagami  
11 river.

12 A. Well, the environmental assessment  
13 for the Mattagami Complex has been submitted.

14 Q. Yes.

15 A. And the only other place where we  
16 have considered a potential exists is really Cypress  
17 Falls on that particular river.

18 Q. And is your evidence that your  
19 approach to these environmental assessment hearings and  
20 how you might sit down and resolve issues which will  
21 continue to arise with the Aboriginal groups is not  
22 going to be affected by the existence of the new  
23 corporate policy?

24 A. Well, we are really on hold. We  
25 don't really know what the future is going to bring and

1 I guess that's why we have considered those sites  
2 beyond the Mattagami Complex to be treated as an  
3 exclusion criteria.

4 Q. Is it fair to say, Ms. Quinn, in  
5 general your ability to plan and see the future with  
6 respect to hydroelectric development in general is much  
7 more uncertain today than this was, let's say, two or  
8 three years ago?

9 A. That is a very general question.

10 Q. Well, you have certainly introduced  
11 in the past two years or so a rather strong commitment  
12 to co-operation with and respect in regard for  
13 Aboriginal concerns which is a new direction for  
14 Ontario Hydro, would you agree?

15 A. It's a direction that's been growing,  
16 that's right since the early 80s.

17 Q. I don't mean to say it's not an  
18 important and appropriate objective, and as laudable as  
19 it is, would you not agree with me that it is bound to  
20 introduce some greater uncertainty in your ability to  
21 plan and proceed with your hydraulic program in general  
22 than existed before you developed this new policy?

23 MR. SNELSON: A. I think that is a very  
24 difficult question to answer. One of the intents of  
25 working with other groups is to work in the direction

1 of obtaining agreement, and it may be in the absence of  
2 these policies then things were more uncertain than  
3 they are with these policies.

4 Q. Before, if I understand it, Mr.  
5 Snelson, you would proceed even in the absence of  
6 agreement with the opponents, if you thought it was  
7 appropriate and you would then submit it to  
8 environmental assessment, correct? That was the old  
9 system?

10 A. My colleagues can comment more  
11 specifically on the old system. I was talking more in  
12 a general way.

13 But by going ahead without participation  
14 that may get you through the first stage of the  
15 process, but it may end up building pitfalls that you  
16 will fall into at the next stage of the process. So I  
17 am not sure that a policy of working closer with  
18 affected peoples at early stages in projects might in  
19 the long run, in fact, not be the way of reducing  
20 uncertainty rather than increasing it. It may be that  
21 you live in a bit of a fool's paradise if you move  
22 ahead to a second stage without having some --

23 Q. You will agree with me, Mr. Snelson,  
24 that we are all in the position of having to speculate  
25 greatly as to what the impact of this new initiative,

1 the new corporate policy is going to be on your ability  
2 to develop the hydraulic potential in an orderly and  
3 timely fashion; is that not fair?

4 A. That is true.

5 Q. As a planner, Mr. Snelson, wouldn't  
6 you agree with me that the introduction of this  
7 corporate policy by definition introduces an additional  
8 element of uncertainty into your hydraulic planning?

9 A. It changes the way in which we do  
10 hydraulic planning. And it may increase a greater  
11 perception of uncertainty. I am not sure that it  
12 actually increases uncertainty.

13 Q. But you are not sure.

14 A. That's right.

15 MS. QUINN: A. An observation is that it  
16 perhaps acknowledges the uncertainty. The uncertainty  
17 may well have existed before, but I think we are now  
18 acknowledging it and we are trying to do something to  
19 reduce it.

20 Q. We spoke before about some of the  
21 benefits, Mr. Snelson, of the hydraulic potential you  
22 have, the system benefits, and am I correct that  
23 essentially in your evidence in chief what you say is  
24 you have determined that these benefits warrant  
25 proceeding with hydroelectric development subject to



1 local site-specific impacts which may override the  
2 benefits you get from hydraulic?

3 MR. SNELSON: A. That is correct.

4 Q. And it follows then from that, that  
5 the site-specific assessment of the impacts is an  
6 absolutely essential step in determining whether and  
7 with respect to how much hydraulic potential we are  
8 going to proceed with development?

9 A. Certainly the site-specific  
10 assessments are vital to proceeding with specific  
11 hydraulic developments.

12 Q. Well, we are agreed, Mr. Snelson,  
13 that we look at hydraulic generically and we see all  
14 these benefits, and the only reasons not to proceed  
15 with it is if the local impacts are so great that they  
16 override those benefits; correct? That's the equation.

17 A. In a general sense, yes. There is  
18 the economics of course that have to be brought in as  
19 well.

20 Q. Sure. But we have in the general  
21 equation, we have got these benefits we have talked  
22 about on one side, we have got the site-specific  
23 impacts on the other side, and all we have and all we  
24 will have throughout this whole hearing is the evidence  
25 on the benefits side and we are not going to get the



1 site-specific costs side; isn't that right?

2 A. I do believe some of my colleagues  
3 have given some evidence as to the general nature of  
4 the types of effects that would be experienced at the  
5 site-specific stage, that would be analyzed at  
6 site-specific stage.

7 Q. But you can't make the determination  
8 of the value of that cost side of this equation unless  
9 and until we have the site-specific evidence; would you  
10 agree with me?

11 A. It's not fully complete. The  
12 decision to proceed with particular sites is not  
13 completed until the site-specific process is over, and  
14 the attainable potential in some ultimate way is the  
15 sum of what happens at the site-specific hearings.

16 Q. I appreciate that, Mr. Snelson. But  
17 I thought we had agreed, and indeed I understood your  
18 evidence in chief was that we have these benefits of  
19 hydraulic that we have talked about, we have talked  
20 about indigenous, renewable, environmentally benign  
21 compared to some other options, and I understand are  
22 understood you to say that's why we go ahead with it  
23 unless there are local impacts which outweigh those  
24 benefits. Am I not correct? That's the situation we  
25 are in?

1                   A. Providing the sites are economical,  
2     yes.

3                   Q. All right. And I am not suggesting  
4     that it has got anything to do with the way that Hydro  
5     had at one time hoped to present its case, but we are  
6     now in the situation, are we not, where we simply in  
7     hearing can't go very far towards answering or  
8     ascribing a value to that local cost side of the  
9     equation?

10                  A. We have only been able to describe it  
11     in very general terms.

12                  Q. You have spoken in your evidence  
13     about applying exclusionary factors to the potential  
14     but you derived the potential, did you not, Mr.  
15     Snelson, by essentially adding up the individual sites?

16                  A. We derived the potential primarily by  
17     working down from the total theoretical potential in  
18     the province by excluding certain categories of sites.

19                  Q. But how do you get to the total  
20     potential in the first place? Do you not add up the  
21     individual potential sites that you identify?

22                  A. The result of that process, because  
23     the total potential is a specific set of sites, then  
24     that exclusionary process does leave a set of sites  
25     within the attainable potential.

1                   We do recognize that some of our  
2       exclusionary categories are not total and that  
3       consequently some things that have been excluded,  
4       considered to be excluded at this time with better  
5       information may become included again, and we also  
6       recognize that some of the things that are within the  
7       attainable potential, some of the sites within the  
8       attainable potential may for some reason fail to go  
9       forward to actual construction. And so I don't believe  
10      it is appropriate to make a total one-to-one comparison  
11      between a set of sites and the attainable potential.

12                  Q. What you are saying, if I understand  
13      you, Mr. Snelson, is that even if some of the sites  
14      which comprise the 1,400 to 1,800 megawatt range you  
15      have identified fail for some reason, you believe you  
16      may have an adequate number of other sites which may  
17      become more economic or feasible for other reasons in  
18      the future?

19                  A. Yes.

20                  Q. You will agree with me that trying to  
21      make any prediction or forecast with respect to how  
22      much, if any, of those sites which are presently  
23      excluded is an even more perilous exercise than trying  
24      to make a prediction of how many of the identified  
25      attainable sites are going to proceed through to

1       fruition?

2                   A. For any particular excluded site it  
3       would be very difficult to make a prediction with any  
4       confidence that that particular site might become  
5       included.

6                   I think it is a moderately high  
7       probability that somewhere or other there will be an  
8       excluded site or more than one excluded site that will  
9       come into attainable potential for one reason or  
10      another within the next 20 to 25 years.

11                  Q. Generally speaking, your best  
12      site-specific environmental information you have with  
13      respect to the sites you propose to proceed with today;  
14      is that fair?

15                  A. Generally, yes.

16                  Q. On a related topic, Mr. Snelson, you  
17      have already discussed this in some of your evidence  
18      before, in summary am I correct that you really must  
19      plan the exploitation of an entire river at one time  
20      and you can't proceed piecemeal with that planning?

21                  A. That is a preferred approach.

22                  Q. And if you want to adopt that  
23      preferred approach, would I be correct that delays or  
24      doubts or problems with one site on a river is likely  
25      going to have an impact on at least the timing of your



1 planning for the entire basin or river?

2 A. I don't know whether it is possible  
3 to make that as a general statement.

4 [4:25 p.m.]

5 Q. Let's take a situation where you have  
6 new or redevelopment of four sites on one river. On  
7 one of those sites a very large question arises as to  
8 whether you are going to get approval for that because  
9 of the environmental assessment process or because of  
10 some consideration your management may be giving to  
11 excluding that site.

12 Am I not correct that what Hydro is going  
13 to do until that issue is resolved is essentially slow  
14 down or suspend its planning because it doesn't know  
15 what to do with the other sites?

16 A. It depends how closely linked the  
17 developments are one to the other.

18 Q. But the situation I have suggested is  
19 certainly a very real possibility?

20 A. If the sites were closely linked,  
21 then that would be a possibility.

22 Q. The redevelopments on the Mattagami  
23 River, those you would consider closely linked sites?

24 A. One to another, yes.

25 Q. And just continuing on this issue,



1 Mr. Snelson, do I understand your evidence correctly  
2 that the economics of many of your hydraulic sites  
3 depend upon the configuration of the rest of your  
4 system at any particular point in time?

5 A. The economics of the hydroelectric  
6 development depend on the system that they're going to  
7 be connected to.

8 Q. So you really have to plan your  
9 hydraulic developments and the development of the rest  
10 of your system in tandem?

11 A. Yes.

12 Q. Mr. Snelson, I just want to talk for  
13 a moment about another value of the hydraulic potential  
14 which has been mentioned briefly, I just want to  
15 explore it a little bit, and that is the spinning  
16 reserve that it provides to you. It does provide that  
17 benefit, does it not?

18 A. Yes.

19 Q. And spinning reserve is the reserve  
20 which is already synchronized to your system and can be  
21 called upon virtually instantaneously if you require to  
22 call on the reserve?

23 A. That is correct.

24 Q. And hydraulic, as I understand it,  
25 Mr. Snelson, essentially gives you cost-free spinning

1 reserve?

2 A. Yes. The hydraulic units that are  
3 connected to the system would normally be operated at  
4 their maximum efficiency point, which is likely 80 to  
5 90 per cent of its maximum output, and the remaining  
6 output is available for use as spinning reserve if  
7 required and is a virtually free source of spinning  
8 reserve.

9 Q. The optimal efficiency is at this 80  
10 to 90 per cent level, even without considering the  
11 value of the free spinning reserve?

12 A. That is correct.

13 Q. All right. And would I be correct,  
14 Mr. Snelson, that having to replace -- I'm sorry, let  
15 me go back a moment. Am I correct that you are obliged  
16 by your agreement with other utilities in the area to  
17 maintain a certain percentage of your reserve as  
18 spinning or synchronized reserve?

19 A. Yes.

20 Q. What percentage is that?

21 A. I don't recall the percentage, and I  
22 don't recall whether it was given in Panel 2  
23 discussion. I believe Mr. Barrie generally did discuss  
24 operating reserve, and spinning reserve is part of  
25 operating reserve.

1 Q. We can perhaps go back and look. But  
2 in any event, would it be fair, Mr. Snelson, to say  
3 that the savings to the corporation would certainly be  
4 in the order of several millions of dollars on an  
5 annual basis by having the spinning reserve from let's  
6 say 1000 megawatts of hydraulic capacity?

7 A. I'm afraid I don't have those  
8 figures.

9 Q. It would be a significant savings  
10 though? We are not talking about an insignificant or  
11 trivial sum?

12 A. It is probably not a trivial sum, but  
13 I don't really have a figure to quote for you.

14 Q. Mr. Snelson, let me turn in the time  
15 remaining to some of the perhaps what I would call more  
16 technical issues associated with your Hydraulic Plan.

17 I want to turn first to the subject of  
18 load meeting capability. That's a term you are  
19 familiar with, Mr. Snelson?

20 A. Yes.

21 Q. Am I correct that load meeting  
22 capability is really an expression of how the amount of  
23 available water or energy affects the installed  
24 capacity of the unit at a hydraulic site?

25 A. The term load meeting capability is

1 more general than just to hydraulic units.

2 Q. I appreciate that.

3 A. The general concept is that it is the  
4 amount of firm load, additional firm load that the  
5 system can reliably supply because of the addition of  
6 this particular source of generation to the system.

7 So, for instance, if there is a 100  
8 megawatt unit added to the system, accounting for all  
9 the imperfections of that unit, it may be that it's  
10 only 80 megawatts that the additional firm load can be  
11 supplied because you have added that unit to the  
12 system.

13 Q. And bringing it down to hydraulic,  
14 the largest factor in moving from your installed  
15 capacity to your load meeting capability would be the  
16 availability of water or energy?

17 A. In most hydraulic units, hydraulic  
18 stations, in particular hydraulic peaking stations,  
19 that's the case.

20 Q. In order to determine your load  
21 meeting capability for a hydraulic unit am I correct,  
22 Mr. Snelson, that you must know the hours of operation  
23 of that unit?

24 A. You have to know some information  
25 about the amount of energy it can produce compared to

1 the amount of energy if it was operating flat out, and  
2 that can be expressed as having enough water to operate  
3 for so many hours per day and that may be the measure  
4 you were referring to.

5 Q. Isn't that typically the way you go  
6 about determining your load meeting capability for  
7 your --

8 A. We often express it that way.

9 Q. And when you derive the energy number  
10 that you have spoken about do you derive that from  
11 median stream flow conditions or adverse stream flow  
12 conditions?

13 A. I believe it's median.

14 Q. And by using the median, that means  
15 you assume a stream flow that will be present 50 per  
16 cent of the time or more?

17 A. Yes, that's correct.

18 Q. And you don't then take into account  
19 or give any weight to the times when the flow may be  
20 below the median, which could be as much as 50 per cent  
21 of the time?

22 A. Yes, that is correct.

23 Q. Is one of the uses of the load  
24 meeting capability number, Mr. Snelson, to calculate  
25 the levelized avoided costs?



1 A. Yes.

2 Q. One of the things you do with your  
3 levelized avoided cost of course is to determine the  
4 cost/benefit ratio for your various resources?

5 A. Yes.

6 Q. And what you then do with the  
7 cost/benefit ratios of course is to rank your  
8 resources; correct?

9 A. The cost/benefit ratio is used as an  
10 indicator of the relative economics of different  
11 hydraulic sites.

12 Q. And hydroelectric sites versus other  
13 resources as well?

14 A. It is a first indicator of that.

15 Q. What other indicators are there?

16 A. Well, the reason I called it a first  
17 indicator is that it is a comparison of the costs of  
18 hydroelectric development to the cost of other  
19 resources that are considered to be incremental in the  
20 system incremental cost calculations. It isn't a  
21 comparison against any particular other option, nor any  
22 single other option.

23 Q. But in determining what your next  
24 increment of supply is going to be you primarily have  
25 regard to those cost/benefit ratios?

1                   A. It is the key economic indicator we  
2 look at in determining the economics of hydroelectric  
3 development.

4                   Q. Fair enough. And you would agree  
5 with me, Mr. Snelson, therefore, that it is important  
6 that the levelized avoided costs which go into those  
7 ratio calculations be themselves calculated on a  
8 consistent basis as between the various supply options  
9 you are looking at?

10                  A. That is correct.

11                  Q. And we have had some discussion about  
12 the calculation of your levelized avoided cost for  
13 hydraulic. Let's look at thermal for a moment.

14                  You also use your load meeting capability  
15 number to determine your levelized avoided cost for  
16 thermal?

17                  A. I don't believe that we use levelized  
18 avoided cost in thermal calculations.

19                  Q. You come up with a cost/benefit  
20 ratio, do you not?

21                  A. No.

22                  Q. So how do you rank them when you look  
23 at the relative economic benefits as you have indicated  
24 a moment ago? What do you compare?

25                  A. Well, we tend to do a calculation of

1 levelized unit energy cost, which is the cost of the  
2 option not its value, of various options to determine  
3 relativity.

4 I think we are getting somewhat beyond  
5 Panel 6 right now.

6 Q. I want to come back to the hydraulic  
7 issue.

8 A. And then we tend to not do an avoided  
9 cost calculation but rather to do systems simulations  
10 of a number of plans with different amounts and  
11 different proportions of thermal units.

12 Q. Is the determination of the load  
13 meeting capability of the various units you could be  
14 considering, whether they're hydraulic or thermal, is  
15 that an element which you have to have accurate to go  
16 ahead and do this exercise?

17 A. We don't specifically in those  
18 calculations identify a load meeting capability of  
19 different fossil generating units, nuclear generators.

20 MR. MARK: Your indulgence, Mr. Chairman.

21 Q. You do, though, Mr. Snelson,  
22 calculate the load meeting capability for your thermal  
23 units?

24 MR. SNELSON: A. We have done it from  
25 time to time, yes.

1 Q. Is it not something that you do for  
2 any purpose in system planning?

3 A. It is a calculation that we do as we  
4 see the need to do it.

5 Q. Do you use it for, for example,  
6 calculating the avoided cost for purposes of analyzing  
7 the non-utility generation options?

8 A. Yes, we do use it for that purpose.

9 Q. And when you calculate the load  
10 meeting capability for thermal am I correct that what  
11 you try to put into the analysis is all the operating  
12 constraints on the unit so you can determine exactly  
13 what the difference is between the installed capacity,  
14 as you will, and that unit's ability to meet an  
15 increment of load?

16 A. For non-utility generation we take a  
17 very generous calculation of assuming the load meeting  
18 capability to be one minus the forced outage rate.

19 Q. And the forced outage rate is your  
20 compilation of the factors which could result in the  
21 unit not operating from time to time?

22 A. Due to forced outages, yes.

23 Q. And going back to the hydraulic  
24 situation, am I correct that when you calculate the  
25 load meeting capability for that you are not factoring

1 in or including any recognition for the perhaps up to  
2 50 per cent of the time when that unit isn't going to  
3 operate at the median level that you have used because  
4 of water conditions?

5 A. No, I think these are fairly  
6 comparable in that the forced outage rate is the  
7 expected amount of forced outage for a unit in a year,  
8 and in half the years you would expect the forced  
9 outage rate to in fact be higher than the forecast  
10 forced outage rates, and in half the years you would  
11 expect the forced outage rate to be lower. So I see  
12 these as fairly similar assumptions.

13 Q. But do you use a median forced outage  
14 rate? Is that what you are saying?

15 A. Well, it is our best estimate of  
16 forced outage rate. It is not our estimate of the  
17 forced outage rate that we are very sure will be --  
18 forced outage rates will be less than that. It is our  
19 best estimate.

20 Q. Another term that is used from time  
21 to time with respect to hydraulic units, Mr. Snelson,  
22 is the dependable peak capacity. You are familiar with  
23 that?

24 A. Yes.

25 Q. And when we talk about 1,400 to 1,800



1 megawatts of hydraulic potential, are we talking about  
2 dependable peak capacity or some other unit of  
3 measurement of capacity?

4 A. We would expect the dependable peak  
5 capacity to be close to that figure.

6 Q. And what the concept dependable peak  
7 capacity tells us is the capacity which is available a  
8 certain percentage of time where that percentage is one  
9 which you consider to be an appropriate threshold for  
10 saying something is dependable. Do I have it correct?

11 A. Yes. We usually refer to it as 98  
12 per cent dependable peak capacity, and that's the  
13 capacity that will be equalled or exceeded 98 per cent  
14 of the time.

15 Q. Do I take it from that that you have  
16 made some determination that 98 per cent of the time is  
17 the appropriate threshold for determining whether  
18 something is dependable?

19 A. This is a hangover from the time when  
20 we were largely a hydroelectric system, and we have  
21 maintained the distinction. I'm not sure that we have  
22 particularly in recent years determined that 98 per  
23 cent is the right level to select for dependable  
24 capacity.

25 Q. And of course, when you have 98 per

1 cent what you are doing is you are excluding from your  
2 assessment of what is dependable from this resource a  
3 low flow water condition which could occur as much as  
4 two per cent of the time?

5 A. Yes. This is a very small issue on  
6 the hydraulic system as a whole with respect to  
7 capacity.

8 If you were to look at Exhibit 365, which  
9 is the Power Resources report - and you perhaps don't  
10 need look it up - but table T-1 shows that for the  
11 whole system, this is the existing system, that the  
12 dependable peak capacity, the whole system, is of the  
13 order of 6,729 megawatts and the median peak capacity  
14 is in the order of 6,499 megawatts.

15 So for the whole system the difference is  
16 about 230 megawatts, about 3 per cent.

17 Q. Have you made any assessment, Mr.  
18 Snelson, of what the difference would be if you didn't  
19 use 98 per cent but you used 100 per cent?

20 A. Well, I think 100 per cent is very  
21 difficult to determine. From a set of statistics it  
22 would be rather difficult to say we have got 100 per  
23 cent confidence that this is the level that will always  
24 be exceeded.

25 Q. No, but all you would do in any of

1 these calculations is you look at your historical flow.  
2 You can just as easily say what 100 per cent is as you  
3 can what 98 per cent is based on history?

4 [4:40 p.m.]

5 A. The peak capacity that's available at  
6 a site depends relatively little on the flow. If you  
7 can store the water at a site, then there will be  
8 enough water to generate the peak output if it's  
9 required.

10 It tends to vary more according to  
11 conditions such as what are the expected levels of the  
12 water in the reservoir and the tailwater.

13 Q. Where do you account for in system  
14 planning the 2 per cent? Where do you make allowance  
15 for the 2 per cent of the time based on historical flow  
16 that you are not going to achieve what you have defined  
17 as your dependable peak capacity?

18 A. It is a very small part of the  
19 uncertainties in planning which are not explicitly  
20 accounted for.

21 Q. Let me turn, Mr. Snelson, for a  
22 moment to the incorporation of hydraulic generation  
23 into your LMSTM model, if I could.

24 Do you, when you run your LMSTM  
25 modelling, use high and low flow scenarios for

1 hydraulic or just a median scenario?

2 A. I believe we just use a median  
3 scenario.

4 Q. Why is that?

5 A. We are trying to calculate the  
6 expected energy production of the system.

7 Q. Isn't one of the purposes of the  
8 LMSTM to see what your production costs are under  
9 various conditions?

10 A. We use the LMSTM model to estimate  
11 the production cost of the system and the amount of  
12 different quantities of fuels that will be used and it  
13 is also useful for predicting the amounts of emissions  
14 that are associated with consuming those fuels.

15 Q. And in the LMSTM model you build in  
16 to it, for example, with your thermal units again, the  
17 factors that affect the output from those units during  
18 the planning period you are looking at; correct?

19 A. We build in the outage  
20 characteristics of those units.

21 Q. And you don't with coal units, for  
22 example or nuclear units have a fuel constraint problem  
23 that you are facing. You have assumed you don't.

24 A. That is correct.

25 Q. But you do have a possible fuel

1 constraint problem with hydraulic; correct?

2 A. Yes.

3 Q. And it is one which you can't always  
4 predict at the outset.

5 A. We use our predictions as to the  
6 expected amount of water that is available.

7 Q. Those predictions you know from  
8 experience can be in error.

9 A. Yes.

10 Q. And would it not in that  
11 circumstance, Mr. Snelson, be appropriate when you  
12 incorporate your hydraulic production into your LMSTM  
13 modelling to at least run high and low flow scenarios  
14 in addition to the median scenario to have some idea of  
15 what the impacts will be on your production and  
16 production costs in those fuel situations?

17 A. If we were examining that specific  
18 question as to what would be the effect of different  
19 water conditions, then we might do that. But there are  
20 many such questions that you could investigate such as  
21 what is the effect of higher or lower nuclear  
22 availability which would be equally interesting to look  
23 at.

24 Q. Let me turn to one final technical  
25 issue with you, Mr. Snelson. In the documents that I



1 have handed out - most of which you will be glad to  
2 know because of your answers I haven't had to make  
3 reference to - if you would turn, please, to what is  
4 page 10, which is figure 13 from Exhibit 28. Am I  
5 correct, Mr. Snelson, that what you are endeavouring to  
6 do here is show the comparison of the levelized unit  
7 energy costs for various hydraulic sites compared to  
8 the thermal options you have for those same system  
9 supply increments?

10 A. It's a comparison of the levelized  
11 unit energy cost. We don't consider it all that  
12 reliable as a comparison mechanism between energy  
13 limited options and options that are essentially not  
14 energy limited. So such a figure is merely a general  
15 indication of economics, it can't be relied upon by  
16 itself.

17 Q. But this does have some utility. It  
18 is a comparison that you use, I take it, in planning.

19 A. We would generally use the cost  
20 benefit ratio in preference to this.

21 Q. And if you turn with me to the next  
22 page, which is figure 10 from the same exhibit, 28,  
23 this is where we can get the cost benefit ratios?

24 A. Yes. I believe this was updated in  
25 Exhibit 359.

1 Q. Yes, I am aware it was. But these  
2 two figures from Exhibit 28 were contemporaneous  
3 documents; were they not?

4 A. Yes.

5 Q. So let's just stay with them for a  
6 moment, if we could. I want to make sure I understand  
7 this correctly. If you look at figure 10 which is  
8 where the cost benefits ratios are set out, if you  
9 look, for example, at Lake Gibson, the first entry, I  
10 see a total levelized unit energy cost of 2.9.

11 Are you with me?

12 A. Yes, I am.

13 Q. And you have a cost benefit ratio of  
14 .78?

15 A. Yes.

16 Q. And does that tell me that the next  
17 best alternative will be in the area of about 30 per  
18 cent more expensive than the Lake Gibson addition?

19 A. The 30 per cent is what, the  
20 difference between the 78 and the 100?

21 Q. Yes. If we take a ratio, you  
22 compare -- .78 represents, does it not, the ratio of  
23 the LUEC of Lake Gibson to the LAC; correct?

24 A. That is correct.

25 Q. And the LAC will represent fairly

1 closely, will it not, the cost of the next best option?

2 A. It represents the avoided cost  
3 derived from the things that are considered to be  
4 incremental in the system incremental cost calculation.

5 Q. And that will be the next best  
6 option, I take it.

7 A. It's a mix of options.

8 Q. Sorry?

9 A. It's a mix of options.

10 Q. So, if we go back to figure 13 then,  
11 should we not see that at least in general terms the  
12 next best of these thermal options should come in at  
13 about where the levelized avoided cost was for the  
14 comparable hydraulic?

15 A. I think this is where this figure  
16 starts to be very difficult to interpret.

17 The avoided cost calculation is a mix of  
18 generating additional energy from existing capacity of  
19 different components of different types of additions of  
20 new capacity operating together with the existing  
21 system. So, there are many things that are taken into  
22 account in the avoided cost calculation as we discussed  
23 in Panel 3, and it becomes quite difficult to make the  
24 alignment between these two figures.

25 Q. And is that difficulty perhaps, Mr.

1 Snelson, why figure 13 wasn't updated along with figure  
2 10?

3 A. We have always said that levelized  
4 unit energy cost by itself for an energy limited option  
5 is not a very good measure of its value, so we didn't  
6 see the need to update it.

7 Q. Let me turn to one final issue. I am  
8 not sure who should deal with this. I want to talk  
9 briefly about the hydraulic sites which are being  
10 developed by non-utility generators, and perhaps one of  
11 you can help me out, who is most familiar with that.  
12 Is anyone in particular?

13 No volunteers?

14 Mr. Snelson, I know you are never shy to  
15 volunteer.

16 A. I suspect that the answer might be  
17 that the witnesses on Panel 5 were the most familiar  
18 with it, some of this would be, at least their  
19 potential for non-utility generation.

20 Q. And I was more interested in  
21 following up on some of the evidence that this panel  
22 has given. Mr. Snelson, let me start with you.

23 Mr. Chairman, I will only be two or three  
24 minutes, if I can have your indulgence.

25 Do I understand the evidence in chief

1 correctly, Mr. Snelson, that Ontario Hydro doesn't  
2 itself pursue development of the small sites because  
3 historically you are positioned in terms of orientation  
4 and staffing to do larger sites; is that it in a  
5 nutshell?

6 A. Yes. We are not well organized to do  
7 the small things effectively.

8 Q. And is the implication of that a  
9 belief therefore that these resources can be exploited  
10 more efficiently by somebody else, in this case the  
11 private sector?

12 A. That has been the basis of our  
13 planning, yes.

14 Q. And obviously, or I assume one of the  
15 options which you considered and discarded was whether  
16 or not Ontario Hydro could become an effective  
17 developer of a myriad of small sites. Was that ever  
18 considered?

19 A. I believe that as a general  
20 proposition there are witnesses who have given that  
21 opinion. Mr. Vyrostko gave that opinion in Panel 5,  
22 for instance.

23 Q. Which opinion are you referring to?

24 A. That it would be possible for Ontario  
25 to organize to do the small sites effectively.



1 Q. Looking at it from the hydraulic  
2 perspective, has there ever been any analysis done of  
3 which method of exploitation, by private generators or  
4 by Hydro, is going to be more cost-effective?

5 A. I don't believe we know of any such  
6 analysis.

7 Q. Let me turn to the opposite end of  
8 the spectrum with non-utility generation, and that is  
9 the large sites which have been released, and you  
10 discussed those somewhat in your testimony so far. You  
11 recall those, Mr. Snelson?

12 A. Yes, it was Ms. Basu Roy's evidence,  
13 I believe.

14 Q. I apologize.

15 MS. BASU ROY: A. Yes, I believe I  
16 mentioned four sites that were released to the private  
17 sector.

18 Q. And these are sites, are they not,  
19 Ms. Basu Roy, which are of a size which Ontario Hydro  
20 would consider it appropriate to develop itself with  
21 its own resources?

22 A. That's correct.

23 Q. And I understand from the evidence  
24 that these are sites which the government released to  
25 the non-utility generators; is that correct?

1 A. That's correct.

2 Q. And did Ontario Hydro have any input  
3 into the decision by the government to release those  
4 sites to the private sector?

5 A. It was a decision made by the  
6 Ministry of Natural Resources.

7 Q. I understand that's who made the  
8 decision. My question was whether you had any input  
9 into that?

10 MS. HARVIE: Whether, I am sorry,  
11 whether...

12 THE CHAIRMAN: Hydro had any input into  
13 that.

14 MS. HARVIE: Mr. Chairman, I would have  
15 thought this matter would have been canvassed at great  
16 length in Panel 5 and I am surprised that it is being  
17 raised here.

18 THE CHAIRMAN: Well, perhaps your  
19 surprised is understandable and maybe you're right, but  
20 if Ms. Basu Roy knows the answer, let's have the  
21 answer.

22 [5:00 p.m.]

23 Was Ontario Hydro involved in that  
24 decision in any way?

25 MS. BASU ROY: In the decision to release

1 the site to the private sector, we were not. I guess  
2 we reviewed some of the proposals, but we were not  
3 involved in the final decision.

4 MR. MARK: Q. The people at Hydro  
5 responsible for hydraulic development, have they ever  
6 expressed any interest in these sites?

7 MS. BASU ROY: A. Yes, we have. Some of  
8 these sites were included in some of our plans earlier.

9 Q. And what was the rationale of the  
10 corporation or at least the hydraulic division of the  
11 corporation in not pressing for Ontario Hydro  
12 development of those sites?

13 THE CHAIRMAN: I may be wrong, but I  
14 think these sites were discussed in Panel 5.

15 MR. MARK: I think they were, Mr.  
16 Chairman, and --

17 THE CHAIRMAN: Just a moment, Mr. Mark.

18 And the people who knew about it, because  
19 of course Hydro is very much involved in negotiating  
20 with each of the owners of those sites, and I think the  
21 people who really knew about it gave the answers to  
22 these questions.

23 Ms. Basu Roy may not have the answers.

24 MR. MARK: If I may, Mr. Chairman, I was  
25 just interested in the perspective of those at the

1 corporation responsible for hydraulic development as  
2 to -- the question may be as simple as: Why or to what  
3 extent were they pitching and what they thought of it.

4 THE CHAIRMAN: All right.

5 MS. BASU ROY: I think the fact that we  
6 had included some of these sites in our plans earlier  
7 indicates what we thought of the sites.

8 MR. MARK: Q. You are being just a  
9 little bit obscure for me, Ms. Basu Roy. Did you make  
10 a pitch for the sites and did you think the corporation  
11 could have developed them as efficiently as the private  
12 sector?

13 MS. BASU ROY: A. We had included them  
14 in our plans.

15 Q. Is that a "yes"?

16 A. We thought that the sites offered  
17 good potential.

18 Q. And did you think you could exploit  
19 them and develop them as efficiently as the private  
20 sector could?

21 A. It's not really a decision for us to  
22 make.

23 Q. I didn't ask you whether it was your  
24 decision. Did you think that?

25 MR. SNELSON: A. Perhaps I can answer

1 that, Mr. Mark.

2 Yes, I believe that we were generally of  
3 the view that these sites would have been better  
4 developed by Ontario Hydro and that we let the  
5 government know that fact, at least after the decision  
6 if not before it.

7 MR. MARK: Thank you, Mr. Snelson. Those  
8 my questions, Mr. Chairman. Thank you for your  
9 indulgence, given the hour.

10 THE CHAIRMAN: Thank you, Mr. Mark. Do  
11 you have any questions?

12 Mr. Mondrow, are you next, do you think?

13 MR. MONDROW: Mr. Chairman, Mr. Rodger  
14 asked if he could proceed me, so I will follow him.

15 THE CHAIRMAN: All right. So Mr. Rodger,  
16 you are next, and how long will you be?

17 MR. RODGER: Probably an hour and a half.

18 MR. MONDROW: I anticipate being half a  
19 day, Mr. Chairman.

20 THE CHAIRMAN: Half a day?

21 And then, Mr. Hamer, are you going to be  
22 involved?

23 MR. HAMER: An hour and a half, and  
24 shrinking, Mr. Chairman. (Laughter)

25 THE CHAIRMAN: All right. And



1 interspersed in here is the Gas Association. They're  
2 not here today, I take it? There is no one here from  
3 the Gas Association?

4 MS. MORRISON: They're not going to be  
5 cross-examining.

6 THE CHAIRMAN: They're not going to  
7 cross-examine.

8 Well, with a fair wind we should get  
9 IPPSO and AMPCO and AECL done tomorrow.

10 And then Energy Probe is next? All  
11 right. Energy Probe here? No? All right.

12 We will adjourn until tomorrow morning at  
13 10:00.

14 THE REGISTRAR: This hearing is now  
15 adjourned.

16 ---Whereupon the hearing was adjourned at 5:05 p.m.  
17 to be reconvened at 10:00 a.m. on Wednesday,  
18 December 11th, 1991.







